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Indian Correctional Journal

The Official organ of the Indian Correctional Association

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Editor:

Sri V. KRISHNA MENON

Vol. I OCTOBER 1957 No. 3

Editorial

LEGAL AID

THE Kerala Legal Aid Rules which we have reproduced in this number mark an epoch in the annals of the Legal Aid Movement in India. It is a matter of pride and joy to us that for the first time in its history a Government in the country has initiated and agreed to finance, a systematic programme of legal aid to the poor, with public funds.

The concept of doing justice to the needy and the afflicted is as old as civilization itself. Ancient writings are replete with exhortations urging justice for all, as a religious and civic duty, and instances are not infrequent where individual members of the legal profession contributed a vast amount of time and free labour to poor clients in their private practice. Such individual generosity is, however, becoming less and less effective in our big and industrial cities where an ever-growing influx of rural population coming in conflict with the myriads of laws and regulations produces a large community of people in need of legal aid far beyond the means of private charity. In the heterogeneous nature of such an urban population it is not possible for the lawyers to be known to the needy people. By and large, a client who knows he cannot pay shrinks from seeking out a lawyer who may not demand fee, but will gladly look to some form of free public service. Or else, he seeks the guidance of friends, quacks, or petition writers!

The concept and scope of free legal aid has been growing rapidly with the times. Traditionally, free legal aid means the advice and assistance of competent lawyers, without charge, to all persons who are unable to pay the fees and expenses, though they have a wrong to be rectified or a right to be asserted, whether civil or criminal, thus enabling them to secure justice to the extent our courts of law can do it. In the modern context it includes conciliation, arbitration, or legal proceedings in matters so diversified as industrial and labour disputes, domestic relations, claims for support, divorces, adoptions, rent controls, evictions, workmen's compensation, backward classes and refugee problems. Most people in India are too poor to afford to engage lawyers to vindicate themselves or their rights with the result that, to large segments of our population, the ideal of equal justice under law for rich and poor alike becomes a tragic fiction. Eminent judges and jurists in the country have, on innumerable occasions, voiced their opinion that the absence of a provision for free legal aid in all deserving cases is a serious lacuna in our system of administration of justice which called for an urgent remedy.

Scotland was one of the first countries in the world, to introduce a statutory measure for legal aid. England passed an enactment in 1494, applicable both to civil and criminal cases, for the benefit of "those of small means or none". The idea that every man has a right to defence, gained ground, and finally in 1950, the United Kingdom passed "the Legal Aid and Advice Act", integrating all forms of legal aid throughout the country. In the United States of America, the legal aid movement started only about sixty years ago, and had a somewhat sporadic growth in the early years which accounts for the existence of a wide variation of the agencies that render this service. Legislation is still absent in most counties. Nevertheless, 'legal aid' has been gaining steadily in stature and prestige in that country and is serving the community well. Many improved laws dealing with Small Claims Court, Child labour and the like have also resulted from the promotive influence of legal aid organizations. In India, the first organized attempt to provide legal aid was made in Bombay in 1923, when a 'Legal Aid Society' was formed to "render legal aid, gratuitously if necessary, to all who may appear worthy thereof, and who are unable to procure assistance elsewhere, and to promote measures for their protection". Madras and Bengal followed suit, and several unofficial organizations made earnest efforts to supply the need, but they have been able to touch merely the fringe of the problem.

The value of free legal aid cannot be too strongly emphasised. Law exists to protect the weak, the poor and the ignorant, but laws are not self-executing. The machinery of the law does not move unless set in motion by someone. The setting of the law in motion involves effort and expense. The expense needed is often such as the poor cannot afford. The poor person thus fails to secure Justice. Free legal aid provides the answer to this problem. Apart from saving many a poor family from the disastrous consequences of a grave miscarriage of justice, the existence of a provision for legal aid by lawyers will in itself help to sift the chaff from the grain, and thousands of frivolous and vexatious suits which cannot stand even a moment's scrutiny will not unnecessarily swell the file of the courts. Besides, its morale-building value is immeasurable.

As regards our criminal courts "one often wonders why the defendant to a criminal charge, guilty or innocent, should have to pay for the privilege of being prosecuted. The Public Prosecutor represents the community against the individual, but rarely is there a Public Defender to represent the individual against the community. The result is that in the name of justice unequal contests abound with the whole weight of the State thrown against the accused for the purpose of getting him convicted......... There seems to be a very sound case for the promotion of a Public Defender as an institution as important as the Public Prosecutor in the trial of criminal cases. For one thing, such an innovation will.........save the prosecution

from degenerating into persecution". As it is, no State other than Kerala, has introduced measures for the adequate defence of the poor accused in criminal cases except when they are charged with murder or when committed to death at the referred trials in the High Court. But this is merely scraping the surface of the problem.

Our Republic is ten years old, and has firmly sets its foot on the path of socialism. The provision of free legal aid to the poor is a reform long overdue. If the high ideals and principles enshrined in our Constitution must be achieved and implemented, it seems to be absolutely necessary to introduce this important measure in all parts of the country. At the recent All India Conference of Law Ministers free legal aid seems to have come up for comprehensive consideration. Let us hope that the trends generated at this Conference will soon lead to the necessary Central Legislation, and that it will receive from the public and the State Governments the intelligent and sympathetic consideration it deserves.

V. K. MENON.

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The Indian Correctional Journal will be supplied **Free** to members of the Indian Correctional Association.

The Treatment of Juvenile Delinquents in Australia and New Zealand*

I. Scope

A. Meaning of juvenile delinquency

This survey deals with New Zealand and Australia (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia). The Northern Territory of Australia is not included. There are special laws relating to juvenile delinquents in New Zealand and the Australian States under consideration. The Child Welfare Act (1939) of New South Wales defines a juvenile offender as a child or young person who has committed an offence, and according to the Children's Court Act (1928) of Victoria a juvenile offender "means a convicted child liable to be sent to a reformatory school or to the care of the Children's Welfare Department under the provisions of the Division Two of Part II of the Crimes Act (1928) or any corresponding previous enactment". A similar definition of a juvenile offender is implied when not stated in the laws of New Zealand and the other States of Australia. There is, therefore, common agreement that the term juvenile offender covers a non-adult person within a specified age group who has committed or has been convicted of an offence. The term juvenile delinquency is not used in the laws of the two countries, but apparently the age of the juvenile and the nature of the offence committed by him would normally be taken into account as necessary considerations in its definition.

Age limits

a. *Lower age limit:* In New Zealand, Queensland, Tasmania and Western Australia a person under the age of seven years is held not to be criminally responsible for "any act or omission". In New South Wales, South Australia and Victoria the lower age limit for a juvenile offender is eight years, a person under this age being held not to be criminally responsible for his acts. In addition, the laws of the two countries provide that a person above these lower age limits who is under the age of fourteen years is exempt from criminal responsibility unless it is conclusively proved in court that such a person has acted with discernment. This rebuttable presumption that a child between the lower age limits and fourteen years has not reached the age of discretion and is "doli incapax" is derived from the English Common Law. In this connexion, it should also be noted that the Criminal Code of the Australian States provides that "a male person under the age of 14 years is presumed

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*Reproduced from the International Review of Criminal Policy, No. 9, published by the United Nations.

to be incapable of having carnal intercourse", which is another derivation from the English Common Law.

Within juvenile age limits, the Child Welfare Act of New South Wales recognizes the sub-classification of child meaning a person under sixteen years of age, and a young person meaning someone who has attained the age of sixteen years and is under the age of eighteen years.

b. *Upper age limit:* The laws of New Zealand, Queensland, Tasmania and Victoria provide that a person under the age of seventeen years is a juvenile offender when he has committed or is found guilty of having committed an offence. In New South Wales, South Australia and Western Australia a person under eighteen years is so regarded.

There is a special provision with regard to the upper age limit for juvenile offenders in the Child Welfare Act (1925) of New Zealand. This law, in section 32 (1) provides that "where any young person over seventeen years of age and not more than eighteen years of age appears before the Supreme Court or an inferior Court charged with any offence, the Court may, in its discretion, refer the case to a Children's Court, and thereupon the Children's Court shall have jurisdiction to deal with the person so charged in the manner provided". In New Zealand, therefore, there is a distinctive feature in the definition of the upper age limit of juvenile offenders by which the special provisions made in the Child Welfare Act are applicable not only to a person under the age of seventeen years but also to someone under the age of eighteen years at the discretion of the adjudicating courts.

TABLE—I

Age Limits of Juvenile Offenders in Australia and New Zealand

COUNTRY	Lower age limit	Upper age limit
AUSTRALIA :		
New South Wales ...	8	18
Queensland ...	7	17
South Australia ...	8	18
Tasmania ...	7	17
Victoria ...	8	17
Western Australia ...	7	18
NEW ZEALAND ...	7	17[a]

[a] A person under the age of eighteen years may be dealt with as a Juvenile Offender at the discretion of the Courts.

B. Evolution of Significant Special Legislation

A survey of the evolution of significant special legislation relating to juvenile offenders shows that the early steps taken by the authorities concerned in Australia and New Zealand were primarily directed towards the segregation of juveniles from adults in institutions by the establishment of reformatory and industrial schools. The next steps were aimed at the provision of special legal procedures in the adjudication of juvenile cases resulting either in the creation of special children's to the or in giving special jurisdiction courts adult courts in dealing with juvenile cases. Finally, the efforts of the authorities concerned turned towards the consolidation of the special provisions in one or two laws, very often in conjunction with provisions dealing with general child welfare measures. In this process greater emphasis was placed more and more in the responsibility of the State in providing special facilities for the rteatment of juvenile delinquents.

The early evolution of special legislation for juveniles in the two countries may be said, in general, to have followed closely the pattern of development found in the United Kingdom. In 1866, New South Wales enacted the Industrial Schools Act and the Reformatory Schools Act, apparently the earliest legislation in this regard in both countries. New Zealand passed the Neglected and Criminal Children's Act in 1867 providing for the establishment of industrial schools. Other Australian States followed suit in this respect during the succeeding decades.

The turn of the century saw interest shift from the institutional segregation of juveniles from adults to the provision of special procedures for dealing with juvenile cases in courts. New South Wales again seemed to have pioneered in this respect because the Infant Protection Act (1904) established special juvenile courts. Victoria followed in 1906 with the enactment of the Children's Court Act. A year later, the Children's Court Act of Queensland and the State Children Act of Western Australia both made provision for constituting special children's courts. The Child Welfare Act (1925) of New Zealand which came into operation on 1st April 1926 made provision for special children's courts. It is given to understand that South Australia has experimented with special procedures in adjudicating juvenile cases since the nineteenth century, although no special legislation for this purpose seemed to have been enacted. At the present time, all juvenile cases in this State are dealt with under the provisions of the Juvenile Courts Act, 1941. In Tasmania, with the passage of the Infants' Welfare Act in 1935 provisions were made for the establishment of special courts for juveniles.

A salient feature of the evolution of significant special legislation seemed to be the fact that different laws dealing with juveniles, delinquent as well as non-delinquent, were being progressively consolidated until only one or two laws remained. At the present time, the following laws are in force:

TABLE—2

Laws Relating to Juveniles which are at present in force in Australia and New Zealand[a]

Country		Laws at present in force
AUSTRALIA:		
New South Wales	...	Child Welfare Act (1939).
Queensland	...	The Children's Courts Act (1907-30). The State Children Acts (1911-30).
South Australia	...	Juvenile Courts Act (1941). Maintenance Act (1926-48).
Tasmania	...	Infants' Welfare Act (1935).
Victoria	...	Children's Court Act (1928).
Western Australia	...	Child Welfare Act (1947).
NEW ZEALAND	...	Child Welfare Act (1925-48).

While the evolution of special legislation for juveniles in Australia and New Zealand paralleled in many respects the precedents found in the United Kingdom as is evident from the above information, it could equally be said that the two countries displayed distinctive features of their own. The following method of dealing with juvenile offenders which is provided in the laws of the two countries is a distinct departure from the practice found in the United Kingdom. Courts may, in addition to other measures of disposition which they can make use of, order a juvenile to be a "ward of the state". When such an order is made, the juvenile concerned is placed in the custody of the head of the department which has special responsibility for the care and rehabilitation of juveniles. The responsible authority has power to decide the best method of treatment and care for a juvenile under such custody, and he may be placed in an institution, or in a foster home or receive other treatment. The court which makes the original order of custody does not prescribe the specific type of treatment but this is left to the discretion of the head of the department dealing with the problem. The six States of Australia and the Government of New Zealand have special departments for juveniles who are made wards of the State. They are variously known as the Child Welfare Department (New South Wales and Western Australia), the State Children Department (Queensland), Children's Welfare and Public Relief Board (South Australia), the Social Services Department (Tasmania), Children's Welfare Department (Victoria), and the Child Welfare Division (New Zealand).

a. *Source:* Government replies to the United Nations *Questionnaire* on the Treatment of Juvenile Delinquents from New Zealand and the States of Australia.

II. Services for Apprehension, Detention and Observation of Juveniles

A. The Structure of the services

The departments which have responsibility for the welfare of children play the central role in the organizational structure of community services available for the care and treatment of juvenile delinquents. They assume the administrative responsibility, in large measure, of detention and remand facilities, observation and guidance services, and above all, institutional as well as extra institutional services including probation and foster home placement. In the rare cases where such services are administered by a private social welfare organization, the departments, nevertheless, set the standards required for their operation, and they are responsible for the recognition and the periodic inspection of the services concerned, and for other similar advisory functions. In most cases, therefore, the community services for juvenile delinquents in the Australian States and New Zealand are centrally administered.

B. Apprehension

None of the laws in the two countries makes provisions for special police units created for specific purpose of dealing only with juveniles, and in practice, the ordinary police undertake the arrest of juvenile delinquents. The police forces of the six States of Australia as well as of New Zealand, however, have women police, who deal not only with women offenders and the prevention of crime among women, but who also carry out child welfare activities.

A distinction is made in the two countries between charges and complaints. A charge relates to an offence committed by a juvenile and it is dealt with by the police who are responsible for the arrest of the juvenile concerned. A complaint is made in connexion with a non-delinquent juvenile, who may be neglected, orphaned, or found living in an undesirable environment, and a complaint can be made either by the police or by other authorized persons, such as child welfare officers, or parents or guardians, or representatives of recognized private welfare organizations. In some cases, complaints are made by authorized persons directly to the courts and need not pass through the police. This practice is reported in New South Wales, South Australia and Western Australia. In such instances, the court clerks usually gather the necessary informations. It appears that in the other States of Australia and in New Zealand, while complaints may be made by authorized persons, the information relating to a case pass through the police.

C. Detention

After the apprehension of a delinquent juvenile, the authorities concerned may decide to admit bail, and in such a case, the juvenile will be released in custody of his parents or guardians. Where, however, bail is not admitted, a juvenile awaiting trial or on remand may be detained in a variety of ways. He may be charged to some person willing to take care of him and to take the responsibility of bringing him to court. When this course is not followed, he may be kept in a special place established for the

specific purpose of juvenile detention. Furthermore, depending on the circumstances of the case, he may be detained in a police station or jail. In some instances, he may be kept in a reformatory institution. Legislative provisions also exist for keeping a juvenile in a detention home after a court has ordered institutional treatment, but pending placement in an appropriate institution. Moreover, when an appeal is made, a juvenile may be detained in a special place before the case reaches the higher court.

The laws of the Australian States, in general, provide that a juvenile may be detained for purpose specified under the special legislation without any warrant, and safeguards against habeas corpus proceedings are usually made as in subsection 19(7) of the Victorian Children's Court Act (1928) where it is provided that when evidence of a court order can be produced for the detention of a juvenile, it is sufficient to prevent any habeas corpus action.

In practice, the criteria used for detention placement are those which, pending the hearing and its outcome, will cause the least disturbance to a juvenile having regard to any need for observation, safe custody and similar factor.

1. Detention with approved person

Legislative provisions in New Zealand, New South Wales and Victoria make it possible to detain juveniles with persons who are willing and able to take care of them and to bring them to court. Such detention is decided, in New Zealand, at the discretion of the magistrate, but in Victoria it is apparently decided by the person who apprehended the juvenile concerned. In practice, it appears that a decision of this nature, which is made as an alternative to placement in a detention home, is based on such considerations as expediency, convenience or the welfare of the child involved. The Victorian law, for example, provides that when practicable a juvenile should be taken to a detention home but "when not so practicable, expedient or convenient having regard to distance, the condition or state of health, or the welfare of the child, such child may be placed with some respectable person or persons and such arrangements or agreements may be made by a probation officer or a member of the police force as may be necessary or proper with such person or persons for the care and maintenance of such child by them, or such probation officer or member of the police if married may place such child in his own dwelling under the care and supervision of himself and his wife and may provide for his or her care and maintenance at a reasonable charge". In this connexion, it is reported that the residences of probation officers and police officers are used in country districts which are inaccessible to the capital city where the detention home is situated, but in any case only for short periods. If a long period of remand is necessary, the juvenile is sent to the special detention home.

In New South Wales, a juvenile may be detained in a "Shelter" which, according to the law, includes

"a place of safety", meaning a juvenile's own home, police station, hospital or any other place the occupier of which is willing temporarily to receive a juvenile. An approved persons may, therefore, be charged to take care of a juvenile during the detention period.

2. Special detention homes

With the exception of South Australia, which reported that juveniles are detained in institutions approved by the authorities concerned and used as reformatory schools, the other States of Australia and New Zealand have special detention homes. In New South Wales and Victoria, they are known as remand "depots" and elsewhere as in New Zealand and some of the Australian States they go under the name of "receiving homes".

The special detention homes are mostly found in the metropolitan centres of the two countries, such as Sydney in New South Wales, Melbourne in Victoria, Wellington and Auckland in New Zealand, where the incidence of juvenile delinquency seems to be greater than in the provincial areas. They are centrally administered by the government departments already mentioned.

During the period of his stay in a detention home, a juvenile receives medical care and treatment, and education. In many instances, where it is found necessary, psychiatric care is also given. There is, in the detention centre at Sydney, a Child guidance clinic which offers psychiatric attention as well as guidance in specially adapted scholastic programmes, etc. A children's court clinic, where both psychiatric and psychological services are available, is also in operation at Melbourne. In other places, even though there are no special guidance clinics, use is made of the departmental psychiatrist or other professional personnel, such as psychologists and social workers, for the care, treatment and observation of a juvenile. Such a procedure is followed in New Zealand and in some States of Australia. Recreational facilities, and, in some cases, training in handicrafts are also provided.

Most of the remand depots and the receiving homes accommodate not only offenders, but also non-delinquent juveniles who are neglected, orphaned, or living in an undesirable environment. This is the case with the detention homes in New Zealand and the States of Australia except New South Wales, where the remand depot in Sydney receives only juvenile delinquents. Where delinquent juveniles are kept together with other children, the treatment programmes are the same for both groups. In some instances, however, as reported from Victoria, precautionary measures such as closer supervision and, if necessary, segregation of serious delinquents and potential absconders are taken. In this connexion, it should be pointed out that a number of the remand depots and receiving homes are open type institutions without any security device such as bolts and bars.

In addition to government operated remand depots and receiving homes, juveniles may be detained in private

institutions administered by social welfare or religious organizations. Under the provisions of the Child Welfare Act of New South Wales, "shelters" where juveniles may be detained include such non-governmental institutions, and Western Australia reported that use is made for detention purposes of institutions run by religious bodies. In both the States, however, such institutions are subject to control by the special departments dealing with child welfare questions. The treatment programmes provided in these institutions are comparable to those found in the government detention homes.

3. Police stations and other adult correctional institutions

It is permissible under the laws of New Zealand and the States of Australia to detain juvenile delinquents in police stations. A juvenile whose delinquents act is of a serious nature, or who may have an unruly or depraved character may be detained in a police station in the interest of public safety. Furthermore, in outlying rural districts juvenile delinquents may, of necessity, be detained in police stations for lack of other facilities. In practice, however, police stations are very seldom used for the detention of juvenile offenders. Victoria, for example, reported that they are used on an average of twice a year only. In the police lock-ups juveniles are usually segregated from adult offenders.

Adult correctional institutions are used in extremely rare cases for the detention of juvenile delinquents. Queensland indicated that only under exceptional circumstances are adult institutions utilized for this purpose and the practice is limited to certain areas. There is authority under section 18 of the Juvenile Courts Act of South Australia to remand unruly or depraved characters to "gaol", but this power is rarely, if ever, exercised.

4. Long-term care and treatment institutions for juveniles

There are no special detention homes in South Australia where juveniles, pending hearing and during remand, are kept in reformatory schools which are primarily meant as long-term care and treatment institutions. In New Zealand also, some juveniles are detained in government training schools when circumstances warrant this procedure.

D. Observation

There are no special observation homes in the States of Australia or in New Zealand. As already indicated, there are two child guidance clinics in Australia one at Sydney and the other at Melbourne, whose functions include psychiatric and paychological observation and treatment of the juvenile delinquents. In some of the Australian States and in New Zealand, paychiatrists and psychologists are made available when it is found necessary.

Parents, guardians or other approved persons are responsible for bringing a juvenile to court when he is released on bail or detained

in the custody of a reliable person. When he is detained in a special detention home or a police station or other institutions, he is brought to court by the ordinary police, or in some instances, by a child welfare officer. When the police bring a juvenile to court, handcuffs are not used, and the juvenile is transported in either a police patrol car or on the public transportation system.

III. Courts and Administrative Bodies with Jurisdiction over Juveniles

A. Types of courts in existence

Special juvenile courts have been established in accordance with the provisions of existing laws to deal with juvenile cases in the six Australian States and in New Zealand. In South Australia the special courts are known as juvenile courts, but elsewhere they are called children's courts. Administrative bodies, such as those found in the Scandinavian countries where they are used in lieu of juvenile courts, do not exist in the two countries.

Under the existing legislation, it is also possible for ordinary criminal courts to try juvenile cases when the offence concerned is of a serious nature such as homicide or rape and is indictable or is subject, according to law, to capital punishment. The bulk of the juvenile cases, however, normally pass through children's courts. In the rare instances where the offence is of a serious nature the special courts commit the cases for trial by ordinary criminal courts having competence to deal with them.

B. Children's courts

1. Organization

The children's courts (including the juvenile courts of South Australia) are administered by the judiciaries of the Australian States and of New Zealand. Legislative provisions as well as practical attempts are made to keep them separate from adult courts.

Wherever practicable, children's courts are held in buildings separate from those of adult courts, but where this is not possible children's courts sit in adult court houses at different hours or in a different room, commonly the judge's chambers. Most metropolitan centres and some populous urban areas use separate buildings for children's courts, while in the rural districts adult court premises are generally employed.

In New South Wales special children's courts, with their own premises, are established in metropolitan Sydney and three other large urban areas. Elsewhere in the State, ordinary magistrates empowered with the special jurisdiction sit in children's courts which, although using adult court premises, hold their sessions at a different time from them.

In the metropolitan area of Brisbane, Queensland, children's court sessions are held in an office of the State Children Department, while adult court premises are used in other places where juvenile cases are usually heard in the magistrate's private room. A similar situation prevails in South Australia, Tasmania, Victoria and Western Australia.

Throughout New Zealand children's courts sit in different premises wherever possible, but alternatively, different rooms are used in the regular court buildings. "In some places, rooms attached to the Child Welfare district offices have been used and in others Sunday Schools or other halls are hired. In the smaller districts it has been found convenient and satisfactory to use the Magistrate's private room at the Courthouse...". Care is taken in the latter instances that "the time of the sitting and the movements of the children concerned are designed to avoid association with persons taking part in the proceedings of other courts or waiting to attend them".

The children's courts of these countries are parallel to magistrates' courts and courts of justices of the peace, and very often they concurrently use the personnel of these adult courts. There are, however, instances where special children's court magistrates are employed, particularly in the metropolitan centres of some Australian States.

In order to get a better view of children's courts within the respective state judiciaries, it may be of some interest to point out briefly the question of how appeals from children's courts are made. In New South Wales, the decisions of the country children's courts may be reviewed by the metropolitan children's courts and the original orders changed in accordance with the provisions made in the Child Welfare Act (1939). Appeals from children's courts may also be made to higher courts. It is indicated that there is no appeal or review by higher courts of juvenile cases disposed of by the Queensland children's courts. In South Australia appeal in a juvenile case may be made to the Supreme Court. An opinion is expressed concerning Victoria that unless a sentence of imprisonment (which seldom occurs in practice) or a fine of over £ 5 is imposed no appeal can be made from a children's court to a higher court. If an appeal lies, it is heard by the Chairman of the Court of General Sessions, where a retrial is conducted. In Western Australia, there is appeal from children's courts to full court of the State Supreme Court. In New Zealand, the decisions of children's courts are not subject to appeal or review by higher courts, except on points of law.

In Queensland, South Australia and Victoria, a Juvenile brought before a children's court has the right to demand trial by a higher court or by jury. This right does not exist in New South Wales. In Western Australia, it is not definitely known whether this right exists. It is indicated that in the opinion of the special magistrate of the children's court, there is no right to demand trial by a higher court or by jury, an opinion which, however, has not been resolved by a superior court to date.

2. Jurisdiction

The Children's courts of Australia and New Zealand have jurisdiction over juvenile cases involving most types of offences. In addition, the children's courts have jurisdiction over juvenile cases involving neglect,

dependency, truancy, maintenance and custody. These are not cases of delinquency but those needing care and protection.

In connexion with the types of offences covered, the Children's courts have jurisdiction over all summary offences but do not usually have the same powers in relation to indictable offences. As illustrations, in New South Wales, the jurisdiction of Children's courts, in accordance with the provisions made in section 83 of the Child Welfare Act, do not cover homicide, rape or other offence punishable by death. In Queensland, while all charges against juveniles are heard in children's courts, indictable offences are heard later in the open Supreme Court. Homicide cases do not fall within the competence of the South Australian juvenile Courts. In Tasmania, the provisions made in this respect in the Infants' Welfare Act, indicate that children's courts do not have jurisdiction over the more serious offences. The jurisdiction of the children's courts of Victoria excludes offences which are ordinarily triable before the Supreme Court only, that is, murder and other very serious crimes. In view of the fact that the children's courts of Western Australia are deemed to be courts of summary jurisdiction, they do not apparently have competence over the more serious indictable offences. The situation in this respect is similar in New Zealand where, by virtue of the provisions made in section 22 of the Child Welfare Amendment Act (1927), murder and manslaughter are excluded from the jurisdiction of children's courts.

As previously indicated, the laws of the Australian States as well as New Zealand have shown a tendency towards the consolidation of the provisions relating to non-delinquent children needing care and protection (neglected, orphaned, etc.) with those dealing with juvenile offenders. The result of this is no doubt reflected in the fact that the children's courts of the two countries have jurisdiction over such non-delinquent juveniles in addition to juveniles who have committed offences. In having jurisdiction over juveniles needing care and protection, children courts may deal with juveniles of any age below the upper age limits defined by the laws concerned, without restrictions as to the lower age limits. On the other hand, in the case of juvenile offenders, the special courts have to take into consideration, as an important element, the age of criminal responsibility which is either seven or eight years of age, in the laws of Australian States and New Zealand.

3. Personnel

Similarities as well as differences are found in the manner by which children's courts are constituted in the various Australian States and New Zealand. In New South Wales, Queensland and South Australia a salaried magistrate sitting alone, or two justices of the peace constitute a children's court. According to Tasmanian law, one or more special magistrates, or two or more justices of the peace constitute such courts. The special courts of Victoria are constituted by one or more, but not more than five, stipendiary and honorary magistrates. In Western

Australia, special magistrates, resident magistrates or police magistrates, all of them salaried, may constitute a children's court. These magistrates may sit alone, or in the case of the special magistrates they may be assisted by "members" who are appointed for this purpose by the state governor. Only one member may assist a special magistrate at a time. A children's court may be also constituted, in the absence of a special magistrate, by at least two members sitting for the purpose. In New Zealand, a stipendiary magistrate or one or more justices of the peace constitute a children's court. Similar to the children's courts of Western Australia, "court associates" who are persons appointed by the Governor-General on the basis of "special knowledge or experience deemed to be of advantage to the court..." may assist the presiding judges. Members and associates are appointed on an honorary basis and may be of either sex. The general pattern is for the metropolitan children's courts to employ special magistrates whereas in the rural areas justices of the peace constitute children's courts.

In New South Wales, a special magistrate is appointed by the Public Service Board on the recommendation of the Justice Department. He must possess the qualifications for appointment as a stipendiary magistrate and in addition is required to have some specialized training for his work. Legal training is a necessary qualification for appointment as magistrate or judge of children's courts by the Governments of Queensland, South Australia, Tasmania, Western Australia and New Zealand. In Victoria, the stipendiary and honorary magistrates are appointed by the Governor-in-Council; the stipendiary magistrates are required to have training in law and experience in courts whereas the honorary magistrates are persons who have been honorary probation officers or are those experienced in social work. It is apparent from the above information that magistrates and judges of children's courts in the two countries are legally trained persons who are in most cases concurrently magistrates of adult courts but are appointed as special children's magistrates in view of their suitability for this purpose. Special magistrates also have legal training. The justices of the peace are honorary and appointed in accordance with the judicial regulations of the two countries.

The case concerning a juvenile is presented in court either by a prosecutor or a child welfare officer of the special department dealing with children. In New South Wales, a juvenile case is presented by the court officer of the Child Welfare Department who is specially appointed by the Department because of his legal knowledge and aptitude for work in children's courts. He is also required to have completed the departmental training course for district child welfare officers and to have experience in administration and field work within the Department. In Queensland, a juvenile case in court is presented by a police prosecutor who is dressed in civilian clothes. A case concerning a juvenile offender is presented by a

police prosecutor and a case relating to a non-delinquent juvenile is presented by an officer of the Children's Welfare Department of South Australia. Police prosecutors present juvenile cases in the children's courts of Tasmania, Victoria and Western Australia. In the last-named State an authorized officer of the Child Welfare Department, when a case is initiated by it, may present a case in Court. A police constable or a child welfare officer is responsible for such work in the children's courts of New Zealand.

Clerks of courts, who are legally trained, keep records and advise justices of the peace and members of children's courts on procedures and practice as necessary.

In addition, personnel participating in the proceedings of children's courts may include probation officers and specialists. In New South Wales and New Zealand child welfare officers of the children's departments perform identical functions as probation officers and therefore no differentiation is made between these two types of workers. In South Australia, Tasmania, Victoria and Western Australia, however, probation officers who assist the courts by conducting social investigations are not always the same as representatives of the child welfare authorities. Specialists such as psychologists and psychiatrists may be requested to give expert opinion on a case whenever the court finds it necessary in most of the Australian States and New Zealand.

4. Procedure

The procedures employed by the children's courts of the two countries may be considered from the viewpoints of: a. whether social investigations on juvenile delinquents are used in the adjudication of cases, b. how court proceedings are conducted, and c. other features of procedure in children's courts.

a. *Social Investigation.* It is a common practice to employ social investigations in the children's courts of the two countries although this procedure may not be required by law. In New Zealand the law specifically provides that "no judicial proceedings shall be heard or determined in any children's court unless and until a child welfare officer has had an opportunity to investigate the circumstances of the case and to report thereon to the court". In South Australia social investigations may be used by the juvenile court by virtue of the provisions made in Section 13 of the Juvenile Courts Act (1941).

In Tasmanian law, the provisions defining the duties of probation officers include inquiry into and furnishing the court with information as to the child's habits, conducts, and mode of living, etc. In most other Australian States, although no such legislative provisions are made, social investigations are nevertheless employed. Only Queensland reported that social investigations are not used in its children's courts.

To the question who carries out such investigations, the answer generally is either child welfare

officers or probation officers. Child welfare officers of the Child Welfare Department undertake the investigations in New South Wales. In South Australia, the probation officers of the Child Welfare and Public Relief Board are responsible for this work. When required psychological and psychiatric examinations are also made by psychologists of the above Department and the Education Department and specialists of the psychiatric clinic in the Royal Adelaide Hospital. Probation officers, apparently belonging to the department dealing with children, undertake investigations in Tasmania. In Victoria, honorary probation officers carry out such investigations. If a juvenile who is a patient of the psychiatric clinic of a public hospital or similar organization is before a children's court, a psychiatric report is furnished by such agency. In Western Australia, probation officers of the Child Welfare Department undertake social investigations, and whenever necessary, a case may also be referred to the Department's Child Guidance Clinic for psychological and psychiatric examinations. In New Zealand, such investigations are carried out mainly by the regular officers of the Child Welfare Division, but in outlying districts the services of about 200 honorary child welfare officers are sometimes utilized for this work. Most of the social investigations carried out are pre-hearing investigations. Victoria, however, reported that pre-sentence investigations are conducted in about 10 per cent of the cases. The investigations undertaken under Section 13 of the South Australian Juvenile Courts Act are also of a pre-sentence variety.

While the investigations are being conducted, juveniles are, as far as possible, detained in their own homes. In other instances, they may be detained at remand depots, receiving homes or other institutions under the control of the children's welfare departments concerned. South Australia reported that on rare occasions a private institution may be used for such detention.

A few illustrations may be given concerning the scope covered by the social investigations. In New Zealand, the social investigation is made on a special report form (C. W. 25) and covers mainly :

(*a*) Personal data, including age, sex, intelligence, health, educational status, employment history, past delinquency or difficulty (if any), etc.

(*b*) Family history and situation, including types of parents, family situation, standard of care and control, and

(*c*) Other relevant data, such as reports of psychological examination.

Similar information forms the basis of the pre-hearing social investigations of the Australian States. In regard to the pre-sentence investigation of juveniles in Victoria, it is reported that the investigation is undertaken in the Children's Court Clinic (Melbourne) which is under the control of a psychiatrist who is assisted by a psychologist, a trained social worker and a trained nurse. The investigation covers, in brief, psychological, medical and psychiatric examinations apart from home, school and work background.

The scope of the recommendations made in the social investigation report is commonly in respect of treatment only and does not relate to the judicial decision, such as the finding of guilt or innocence, of the court.

b. *Court proceedings.* Proceedings of children's courts in the Australian States and New Zealand are marked by a balance between a minimum of essential legal formality on the one hand, and informality of atmosphere on the other. To illustrate this, a few features of the proceedings in these children's courts may be briefly mentioned.

Existing laws in the two countries do not require that legal counsel should appear for the defence of a juvenile during the hearings of a children's court. Counsel may, however, be occasionally employed. This, in South Australia, is a matter of the parents' decision or in the case of a child already a state ward a matter for the Child Welfare and Public Relief Board. In Queensland, Victoria and New Zealand, it is also by decision of parents or guardians that legal counsel may be employed. There is no free legal aid given in children's courts with the exception of South Australia where the Law Society of South Australia may appoint a lawyer to defend a juvenile in the special court. In Victoria, probation officers are empowered to act in court for juveniles as if such officers were lawyers. It is the usual practice to have formal defence on the rare occasions when counsel appears in a children's court. Otherwise, such formality is generally waived. In the case of New Zealand, when an alleged offence or substance of a complaint is not admitted the counsel, when employed, presents a formal defence. In practically all the cases where counsel is employed, however, the lawyer co-operates positively with the court and the child welfare officer concerned in advising the juvenile and his parents on action calculated to meet the fundamental needs of the case.

There are varying practices with respect to the giving of evidence on oath by the juvenile concerned and witnesses. To give some illustrations, in New Zealand, section 33 of the Child Welfare Act (1925) provides that in accordance with section 53 of the Evidence Act (1908) no juvenile shall be required to give evidence on oath in children's court proceedings. In Queensland, evidence is given on oath by the juvenile concerned if the latter so selects. The court, however, cannot ask for evidence on oath from the juvenile or his parents without consent. Similarly, in Victoria, the juvenile concerned must elect to give evidence on oath, although parents of the juvenile may be required to do so without such choice. On the other hand, in South Australia and Western Australia, evidence on oath can be required from the juvenile concerned as well as his parents. In Western Australia, a juvenile may be asked to take the oath when the magistrate is of opinion that the juvenile recognizes the significance of the oath. In all Australian States and New Zealand, it is the general practice for witnesses to give evidence on oath.

It is also the usual practice in both countries to allow cross-examination of witnesses and the juvenile concerned during children's court proceedings.

While the above indicates that some minimum judicial formality is employed in children's Courts, informality of atmosphere during juvenile case hearings is achieved by the following means. In New Zealand, for example, the court is conducted as a conference of those concerned in a case rather than as an ordinary trial, and it is not required of the court formally to pronounce conviction in a juvenile case. Usually, children's courts are held *in camera* and certain practices are followed to achieve an informal atmosphere. For example, in South Australia, the magistrate of the Adelaide Juvenile Court does not sit on a dais and the furniture in the room is specially arranged for simplicity. In Victoria, police do not wear uniforms during hearings of children's courts. Simple language with a minimum of legal terminology is employed in most of the children's courts.

Since proceedings of special courts are not public, only authorized persons are admitted while children's courts are in session and limitations are usually imposed on the publication or reporting of juvenile cases in the Press. The common practice is to admit only those persons immediately concerned with a case in addition to the usual complement of court personnel.

According to the reply of Queensland to the United Nations *questionnaire* publication of juvenile cases is not allowed, and sessions are closed to the Press as well as the public. Other States have legislative provisions on this question, similar to that found in section 23 of the Child Welfare Act of Western Australia whereby the special court is not closed to the Press but limitations for reporting of juvenile cases are imposed by the court. In New Zealand, according to section 30(2) of the Child Welfare Act (1925) juveniles are protected from undue or detrimental publicity because reports on juvenile case proceedings cannot be published without the permission of the court. Any action contrary to this is liable to criminal prosecution involving a penalty of a fine with a maximum of £ 100. Similarly, the Tasmanian legislation, for example, provides a penalty of £ 20 fine, for transgressing the prohibition to publish reports of juvenile case proceedings.

(To be continued)

"We are not detaining children to protect the community, nor for punishment. The protection we afford relates first of all to the Child, who needs protection from himself and often from adults and the surroundings they provide him".

—MARJORIE W. LENZ.

"We cannot prepare the future for our youth—but we can prepare our youth for the future".

—FRANKLIN D. ROOSEVELT.

Women Police in India[1]

BY

Smt. CLUBWALA JADHAV, M.L.C.,

Sheriff of Madras.

Women Police Forces exist in the following States[2] in India :—

1. Andhra Pradesh.
2. Bihar.
3. Bombay (including former Sourashtra State)
4. Delhi State.
5. Madhya Pradesh.
6. Madhya Bharat.
7. Punjab.
8. Pepsu.
9. Rajkot.
10. Travancore-Cochin.
11. West Bengal.

The duties of the women police in these States are more or less the same. Broadly, they may be classified as follows :—

Patrolling areas where undesirable women may frequent.

Rescue of young girls found homeless and in danger of becoming prostitutes.

Accompanying Police on Immoral Traffic Act Raids.

Escorting to Court and guarding in Court female prisoners.

Escorting remand and female undertrial prisoners.

Assisting Investigating Officers and questioning complainants in cases such as, assaults on women, rape, etc., and questioning women and child witnesses.

Patrolling Docks and Railway Stations and meeting trains to deal with, control and assist women passengers.

Dealing with stray children.

Deal with Prohibition cases where women or children are involved.

Bandobust duties at large gatherings where women congregate, *e.g.* Public Meetings, Melas and Festivals.

2. Among the States which have Women Police Force, special mention has to be made about the work of the women police in Bombay. Regular women police branches exist in Ahmedabad City, Poona City, Baroda, Nasik, Sholapur and Kolhapur Districts. It has a large number of women police force, and they generally assist the ordinary police in raids and investigation in cases in which women and children are involved. Although the duties of the women police cover service to women in connection with social and moral hygiene work and children in connection with juvenile delinquency and

1. Based on information received from the states before their reorganization.

2. Short Notes on Women Police in the various States are given in the annexure to this article.

juvenile offenders, the Bombay Government find the existing strength of the women police inadequate, and they have a proposal for the formation of special squads for this purpose. In Bombay State, the legislatures have not been lagging behind in finding out statutory means to curb the evil. There are thirty Remand Homes in Bombay State, and children who have no proper homes and who are in need of institutional treatment are sent to Certified Schools or Fit Person Institutions. Children who are released finally from these institutions are helped by the Probation Officers, and this process is called 'Follow-up'. There are also non-official bodies doing good work in Bombay State in the field of probation and after-care.

3. Next comes West Bengal in the efficiency of Women Police. There are three cadres here - Inspectors, Sub-Inspectors, Assistant Sub-Inspectors, besides Head Constables. The emoluments they receive are as follows:

Inspectors	Rs. 300-10-400
Sub-Inspectors	Rs. 150- 4-230-5-250
Asst. Sub-Inspectors	Rs. 65- 3- 95-2-115

Various legislations have been passed to control and prevent Juvenile Delinquency and Immoral Traffic.

4. In Delhi State there is a section of Women Police, and it is employed in duties in connection with demonstrations, processions and in legislatures. Arrangements are afoot to raise a squad specially trained to deal with offences of moral delinquency and soliciting in public.

5. There are a few States in which women police have not been working well. For instance, the Pepsu Government felt that the women police taken over from the erstwhile Faridkot State has been more of a liability than any real asset. Then again at Rajkot, though the Government sanctioned one unit of women police in 1955, response to recruitment was very poor, and so they were not able to set up an effective force.

6. Now a word about the States where there are no women police force. Though many of these States feel that the raising of women police force is essential and will be very helpful, they could not give effect to these schemes for one reason or other.

7. In Coorg it is reported that juvenile delinquency is negligible and there is no immoral traffic in women.

8. Another State where juvenile delinquency is practically non-existent and the incidence of immoral traffic in women is not also such as might justify the employment of women police, is Himachal Pradesh.

9. Jammu and Kashmir State may also be grouped among the states where the problems of juvenile delinquency and immoral traffic in women do not exist on a scale which needs any special notice. This was found as a result of a survey conducted by the Kashmir Government recently.

10. The Inspector General of Police, Mysore, feels that the time for employment of women police is not yet ripe in Mysore. But the

Government have passed three Acts which effectively deal with Juvenile Delinquency and After-care.

11. The former Rewa State (now merged with Madhya Pradesh) welcomes the appointment of women police in their State as immoral traffic forms a problem in one form or other in that State. There is no women police at present in this State.

12. Regarding Travancore-Cochin, (now part of Kerala State) though the Inspector General of Police says that the services of women police for dealing with juvenile problems, suppression of immoral traffic in women and other social services have not been experimented, the writer has toured the Travancore State and has found the women police working efficiently there. They are helping in conducting women prisoners to courts, interrogating women prisoners, and in conducting raids. The work of the women police in the former Travancore-Cochin State has proved successful.

13. Regarding the State of Madras, though there is no women police here, through many legislative Acts, the Government have controlled and prevented Juvenile Delinquency and Immoral Traffic of Women. The Vigilance Department and Stri Sadana run by the Government of Madras are doing excellent work in this direction. These Homes were started some thirty years ago and run by voluntary workers with one-third grant from the Government of Madras. But the number of inmates became too large for a voluntary agency to finance, and therefore in the year 1948, the Vigilance Service was provincialised by the Government of Madras. The Remand and Rescue Homes, the Women's Welfare Department, the Discharged Prisoners' Aid Society, the ever vigilant Probation Department, the Juvenile Court, the Certified Schools and various other Welfare Agencies like the Guild of Service have effectively controlled and prevented Juvenile Delinquency and Immoral Traffic of Women. There are women Honorary Magistrates in Madras who adjudge the cases of juveniles with a motherly heart and try to rehabilitate them. Madras has been acclaimed as one of the forward States in the matter of Social Welfare.

14. The Madras Government is also alive to the usefulness of forming a Women Police force, and the writer has been agitating since 1942 in the Legislature for the formation of Women Police in the Madras State. This matter has been receiving the attention of the Madras Government.

15. In the States where there are women police forces, they have been working fairly well, and in the States where there has been no women police forces, the Heads of Department have nothing to say against the formation of women police corps, but on the other hand recognize the usefulness of such a force.

16. *Need for Women Police:* There cannot be two opinions that women police have an important role in dealing with problems of offences committed by or relating to women and children, prostitution and other

social delinquencies. As has been stated, women police are employed for Vigilance work in Bengal, for implementing Children's Act in Bombay and Delhi, and in other places for escorting women prisoners to courts, escorting them back to their homes after release, for searching females and for doing duty at fairs, festivals and at legislatures. The services of women police are useful in connection with the detection of immoral traffic cases, in connection with raiding of brothels, in visiting suspected areas and rounding up the concerned women and in escorting women prisoners and undertrials.

17. Social and moral vice has undoubtedly increased in many parts of the country, more so in large cities and industrial areas and sea-ports. Clandestine prostitution is on the increase. It can be said that in rural areas the vice is not so prevalent. It is unfortunate that desperate women and destitute girls coming from rural areas into cities become a prey to these evil influences and traffickers. Railway Stations, Hotels, Bus Stops, Cafes and Eating Houses are the vice areas. Various devices to bypass the Acts are adopted. Unfortunately, it is brought to light that clandestine prostitution is found amongst the educated women as amongst uneducated. Vice in the slum areas has become quite prevalent. In certain areas good huts, well-furnished, offer a shielding place for practising these vices. Prostitution in moving vehicles, such as Taxis, Rickshaws, Auto-Rickshaws is common. Empty Railway compartments and railway sidings, open fields and large deserted public buildings at nights are common places for such anti-social acts.

18. Mobilisation of public opinion and closer co-operation of social Welfare Agencies, Law and Police Departments are necessary. In the past some of the Women Associations had Patrollers who used to do patrol work during the evening hours. Patrollers do work, as also women patrollers attached to Women's Associations or Social and Moral Hygiene Units. These patrollers visit the suspected areas of vice and warn those who are committing these malpractices. Further, they patrol Railway Stations, Employment Exchanges and other places where exploiters and traffickers are ever present to draw away women who are deserted or in trouble. One of the duties of the patrollers was to find out the areas of vice and inspect homes or rooms of suspected ones and supply information to the police. If Women police exist, they can not only do these kinds of work themselves, but also assist the patrollers in their difficult work. Educated women should be enlisted in the women police force. The recruitment of the right type of women is important. They should have the qualification of atleast the Matric, both for the Sub-Inspector and the Constable selection, and they should preferably be over 30 years. To attract educated women to join the force, the only solution is to offer good scales of pay and other amenities. In the same way as the mere making of statutes will not solve any problem, the mere creation of and extension of Women Police will not by itself eradicate the evils in question. In this

connection, society in general must play its part well and discharge its social duties in the proper manner. The report of the Social and Moral Hygiene Committee has proved the need for Women Police. The writer has seen women police at work in Great Britain, and other countries where women police is an essential need in the over-all picture of police administration.

19. It is the foundation of great and rich social and charitable institutions functioning under the able guidance and control of honest social workers, providing for rehabilitation of unfortunate women and children, coupled with the spread of education and the good work of women police, that will solve the problem and will work wonders in the field of eradicating social evils.

* * *

ANNEXURE

Short Notes on Women Police in the States before Reorganisation.

1. *Andhra Pradesh:* When Andhra Pradesh was not formed, the Andhra State had no women police. Madras Probation Offenders Act, 1936 and the Madras Children Act, 1920 are in force. The Madras Suppression of Immoral Traffic Act is adopted in this State. Active steps to rescue girls in trouble could not be taken pending establishment of Rescue Homes.

But after the reorganisation of States, at Hyderabad, there is a women police force. There are 39 women working at present. They are employed in escorting women prisoners, tracing juvenile offenders, searching women, helping the Crime Branch, etc. The Woman Sub-Inspector gets Rs. 145/- in all, while the constable gets Rs. 57/- including all allowances, a month.

2. *Bihar:* This State has a women police force with a strength of 14 only. This force forms vigilance squads during Melas.

3. *Bombay:* There is women police in Bombay. The sanctioned strength of women police is 12 Sub-Inspectors, 34 Head Constables and 220 constables. The existing strength is 8, 15 and 185 respectively. Women Police exists in Ahmedabad City, Baroda, Nasik, Sholapur and Kolhapur Districts. The duties of this force are generally to assist ordinary police in conducting raids, and investigation of cases under Prostitution Act, guarding and escorting women and juvenile offenders in prohibition cases. A proposal for the formation of a special squad to cover service to women in connection with Social and Moral Hygiene work and juvenile offenders on the basis of the resolution passed by the All India Conference of Social and Moral Hygiene held at Jaipur is under consideration. The women police here also help in searching women passengers at Docks and Railway Stations.

There are thirty Remand Homes in Bombay State at present. There is an After-Care Association which tackles the after-care problem. There are also non-official efficient bodies doing work in the field of probation and after-care and they receive grant-in-aid from Government for the purpose.

In this State the women police is working well.

4. *Coorg:* There is no women police. Juvenile delinquency in this State is negligible and there is hardly any immoral traffic in women.

5. *Delhi State:* There is a section of women police consisting of 1 Sub-Inspector, 2 Head Constables and 18 police constables since 1948. They are employed in duties in connection with demonstrations, processions and in legislatures. Arrangements are being made for getting specialised training in dealing with offenders of moral delinquency and soliciting in public.

6. *Himachal Pradesh:* There is no women police in this State. Juvenile Delinquency is practically not existent in this State and the incidence of immoral traffic in women is not also such as might justify the employment of women police officers.

7. *Imphal - Manipur:* The problem of juvenile delinquency and immoral traffic in women is not so acute in Manipur. There is no women police.

8. *Jammu and Kashmir State:* This State conducted a survey recently which revealed that the problem of juvenile delinquency and immoral traffic in women did not exist in the State on a scale of which any special notice is required to be taken. There is no women police in the State.

9. *Madras State:* There is no women police in this State and there is no proposal at present to raise such a force. The laws relating to Correctional Work and Suppression of Immoral Traffic, etc. in force are:

The Madras Children Act, 1920.

The Madras Suppression of Immoral Traffic Act, 1930.

The Madras Borstal Schools Act, 1925.

The Madras Probation of Offenders Act, 1936.

There was a proposal for the employment of Women Police in this State and was under the consideration of the Government from time to time since 1942, but it was deferred each time for various reasons.

There are many voluntary Social Welfare Agencies in this State which are doing very good work in dealing with juvenile delinquency and correctional work. The institutions (preventive and curative) in the Madras City are well-managed and are model institutions.

10. *Madhya Pradesh:* There is women police in Nagpur City only. The force consists of 1 Head Constable and 10 constables. The constables are on the scale of Rs. 30 - 1/3 - 38 and the Head Constable Rs. 40 - 1/2 - 45 - 1 - 50. They are generally used to detect consumption and supply of prohibited articles, to collect information on gambling and 'satta', interrogating women witnesses and in conducting searches, keeping secret watch on women, maintaining order in women gatherings and to keep watch on women offenders, etc.

11. *Madhya Bharat:* There are 7 women constables in the police force on the scale 30 - 1 - 45. The duties are to assist in investigations, to inspect brothels, to help women and children in disturbed areas, to maintain peace and order at meetings, etc.

12. *Mysore State:* The Government have passed three Acts which deal with Juvenile Delinquency and After-care.

The Mysore Children Act, 1943.

The Mysore Borstal Schools Act, 1943.

The Mysore Probation of Offenders Act, 1943.

These Acts have not yet been implemented. There is no women police in this State. The I. G. of Police feels that the time for the employment of women police in not yet ripe.

13. *Orissa:* There is no women police and there is no legislation. The question of passing legislation for prevention of juvenile delinquency and after-care is under the consideration of the State Government. The problem of juvenile delinquency has not assumed such proportions as in other States. Juvenile Delinquency is not a grave problem in this State.

14. *Pondicherry:* There is no women police in this State. There are licensed prostitutes in this State.

15. *Punjab State:* There is women police employed in this State—Lady Inspectors, Sub-Inspectors, Head Constables and Constables. Their duties are (a) executive, (b) interrogation and collection of intelligence and (c) welfare—inspection of disorderly houses, supervision over female police lock-ups, etc. The scale of pay of Inspectors is Rs. 150/- which goes upto Rs. 300/- p.m. The constable's pay is Rs. 42½ leading up to Rs. 54½. They get dearness allowance, free uniform, free quarters and conveyance allowance.

16. *Pepsu:* The women police taken over from the erstwhile Faridkot State ever since the inception of this State has been more a liability. This seems to be the feeling of the Pepsu Government.

17. *Rajkot:* Though the Government sanctioned one unit of women police for this State in 1955, response to recruitment was very poor and so far they have not been able to set up an effective force.

18. *Rewa - (Now merged with Madhya Pradesh):* Immoral traffic forms a problem in the Districts of Satna, Ghatarpur, Rewa and Panna. This is largely due to social and economic reasons based on poor standard of living and illiteracy among the masses. As there is Purdha system in rural areas the appointment of women police will be found very useful. There is no women police at present in the State.

19. *Sourashtra State - (Now part of composite State of Bombay)* : There existed a small unit of women police with a strength of 17. This State now forms part of the Bombay State.

20. *Travancore-Cochin State:* This State has a small women police unit. They are used for escorting women prisoners.

21. *Tripura:* There is no women police in Tripura. No case of juvenile delinquency or immoral traffic in women has been reported. There is no separate legislation on correctional work. The Bengal Suppression of Immoral Traffic Act, 1933 has been extended to this State.

22. *Uttar Pradesh*: This State has no women police. The following enactments on Immoral Traffic and Juvenile Delinquency exist in this State.

1. Naick Girls' Protection Act, 1929.
2. The U. P. Suppression of Immoral Traffic Act, 1933.
3. The U. P. Minor Girls' Protection Act, 1929.
4. U. P. First offenders' Act, 1938.
5. U. P. Borstal Act, 1938.
6. U. P. Children Act, 1951.

There is no legislation in After-Care.

23. *Vindhya Pradesh*: There is no women police in this State.

24. *West Bengal:* Women police exist here. There are three cadres—Inspectors, Sub-Inspectors and Asst. Sub-Inspectors. The following is the grade of salary.

Inspectors :	Rs. 300-10-400
Sub-Inspectors :	Rs. 150- 4-230-5-250
Asst. Sub-Inspectors :	Rs. 80- 3- 95-2-115

The Officers are supplied with free kits and free quarters. The duties of women police are :

(*i*) Assist in the arrest of women accused and executing search warrants for recovery of kidnapped and abducted women and children.

(*ii*) Working of Suppression of Immoral Traffic Act.

(*iii*) Escort of women prisoners.

(*iv*) Visits to Welfare Centres for Women and Maternity Homes.

(*v*) Guarding female prisoners in hospitals, police lock-ups, etc.

(*vi*) Assisting in investigation where women are concerned.

(*vii*) Assisting in control of demonstrations.

The following Acts are in operation :—

The Reformatory Schools Act, 1897.

The Bengal Children Act, 1922.

The Bengal Borstal Act, 1928.

The Bengal Vagrancy Act, 1943.

The Bengal Juvenile Smoking Act, 1919.

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Some Reflections on Abscondings from Correctional Institutions

BY

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Many times the success of administration of correctional institutions is generally measured by the figures of its abscondings. Probably, it is believed that the lesser the number of abscondings, the more satisfactory the administration of the correctional institution. As a matter of fact, a worker in charge of an institution has to be on his tip-toes to see that he does not get a 'D' grade, because a certain person 'committed' to the institution has run away from his charge. Not only that, but in many of the administrations, the rules in respect of the punishment for slackness in this behalf, are very strict. Many persons have lost their work only for the fault that a certain person committed to the institution has run away from his charge.

Visitors to correctional institutions for children also at times blame the institution because a number of inmates of the institution have run away.

The higher administrators in the correctional field do often come across reports of the Superintendents of correctional institutions regarding slackness of custodial and caretaking personnel in whose charge such an episode of running away occurred. In many a case the punishment is traditional and the lot of such a person is probably not very fortunate.

Why this is so?

The reasons for this way of thinking are not very far to seek. Traditionally, a correctional institution has remained a means of punishment based on retribution. It has been always considered that a person who runs away from an institution is one who would commit a fresh offence against society. Probably the fact that such a person would go on committing crimes against society is taken for granted imperceptibly. And that is the reason why a great importance is attached to the episodes of absconding from correctional institutions.

Administrative Side

There is an administrative side to the whole question. If the custodial and care-taking personnel are given a lenient consideration, they may probably not maintain the discipline which is required of them. There may be circumstances wherein the man who has made good his escape from a correctional institution is really a danger to society. And in such cases, it is undoubtedly necessary to exercise a very keen control on the detention side of such a person in the institution.

It is also likely that persons who formed the custodial and care-taking staff may develop certain practices of corruption and may allow the offenders to run away and in such

cases, it is obligatory that there must exist some 'tools' so that the fundamental principles of social defence do not deteriorate into nothingness.

The other side

In spite of these considerations it is true that there is another side to this question too. The percentage of such dangerous criminals is certainly not big. A large portion of the population of the correctional institutions is such that they should not have been in the institution at all. As this movement of keeping such persons away from correctional institutions gains ground, probably it will be possible to develop better methods of classification and treatment. And with the modern tools like probation, parole and other open methods it may be possible to reduce the number of persons behind the walls. If this is so, at least in respect of such persons, it is necessary to have a different view as far as the problem of absconding is concerned. Not only that but even persons who are schizoprenic and neurotic who need special treatment do require a separate treatment approach as well as an observant and intelligent control. In short, it is quite necessary to develop a treatment rather than a mere administrative outlook towards the problem of absconding in correctional institutions.

Other considerations

There are other considerations also to this problem.

First of all, the number of guarding personnel is not generally adequate that they can exercise a vigilant watch over the people while at work. Cases have come across where a batch of 30 to 40 persons working outside under the care of one person has given rise to a problem of running away here and there. Is it not physically impossible for one man to be Argos-eyed and watch the movements of two scores of people situated around a large area? If it is so, then it is clear that a mere administrative approach to the problem and its solution in the traditional way is of no use.

Secondly, it is not customary to take into account the back-ground of the custodial and care-taking personnel. Traditionally, in the correctional institutions there is a class of persons meant only for guarding. Mere guarding and watching does not need much of intelligence. Naturally, therefore, there are instances where the custodial and care-taking personnel have deteriorated into human automatons without any specific function as such. It is not the walls or the surroundings of any correctional institution which hold the person safely; the success of the treatment and stabilization of the population of the correctional institution depends on the conscious rapport which the care-taking persons develop with the disturbed persons inside. The degree to which this rapport is achieved is the real touchstone of the success of the running of the institution.

If this logic is accepted, it is clear that a time has come to develop suitable training programmes of the persons chosen for the special work with due selection standards and procedures. Unless such a staff is available, the problem of absconding

is bound to be administrative in the traditional manner.

Thirdly, it is not difficult to imagine the stress and strain of the remaining, cut-off from society and torn away from the near and dear ones. The very stay in a correctional institution, where necessarily the freedom of a person is curtailed, is bound to produce feelings of frustration, isolation and loneliness and consequent development of neurotic tendencies. If this tendency is developed, needless to say that it gives rise to absconding, which is nothing but a symptom of emotional disturbance. With some people disturbance may be easy to be observed, while in some others, it may require the expert judgment of a specialist.

If this tendency towards a prison neurosis is to be obviated, it necessarily means drastic changes in the handling of persons behind the walls.

Next, much depends on the extent to which persons in correctional institutions get an opportunity to express. It must be said that with all the forward steps thought of by the prison administrators, essentially the administration of correctional institutions has remained basically the same. It has got the same foundation of retribution, punishment, and the concept about the offender that he is an enemy of society, and should be dealt with like an enemy, still pervades.

It must be remembered that if there are opportunities of venting out the complexes developed by emotionally disturbed persons in the correctional institutional set-up and if more opportunities are made available for recreation and for normal living, probably the conspiracies of running away may be reduced to some extent, and administration of correctional institutions will be smoother.

Not an over-all solution

No doubt, in spite of these changes, abscondings from correctional institutions are not going to stop. After all, the human organism is complex. The tools of treatment devised by modern social and medical sciences may not reach the darkest recesses of the human mind and therefore, the problems of abscondings are bound to continue though it may be minimised to a certain extent, and the administration will have to deal with this problem to that extent.

However, it is true that the understanding of the whole problem in this manner may give a different turn to the method of assessing the success of the correctional institutions in a proper manner and the traditional tendency to judge the working and success of a correctional institution would be modified.

In fact, if this new approach of thinking about abscondings is understood, the abscondings will be treated as an incentive to develop the tools of treatment of the persons in the correctional institutions, and will be taken as a challenge for further research and development of more scientific techniques. The problem of absconding is nothing but a challenge to the conscious methods and techniques which we are applying in the field of reformation of offenders in the institutions.

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'Socio Economic' or 'Serve the Daridri Narayan' approach to the control of Delinquency and Rescue work in India

BY

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In post-war period, having secured our political freedom, it is inevitable that we are becoming increasingly self-conscious and striving to put our house in order and overcome our national deficiencies in every field of life. Our Five Year Plans are naturally plans for the welfare of the people and can be rightly described as welfare Plans. Welfare includes the physical, moral and mental well-being of the society, which is possible only if we bestow priority of consideration to attain economic self-sufficiency as well, in all classes of our society by provision of the three basic needs at least to the majority of the people. This applies equally to our rural and urban areas, and therefore, all our plans in every field of life must lay an emphasis, wherever necessary, on economic aspect of things first and foremost, and thus help keep intact the human side as far as possible. Neglect of this perspective will be detrimental in the long run as our progress is likely to be one-sided if this aspect is not sufficiently taken into account. It will also lead us to fritter away our scanty resources and energies on vain ameliorative pursuits to solve social problems which are tending to increase day by day as shown by some of the official reports. Most of our social ills and offences of the juveniles and women giving rise to several social problems have their origin in the majority of cases in economic wants resulting in breaking up the viability of the normal family life. Therefore, in keeping with the main objective of our Second Five Year Plan, the basis of correct development and social reconstruction must also necessarily place the deserving due emphasis on the economic conditions of the families which form the healthy nucleus of the society. Nay, even without any appreciable exaggeration, it can be safely ascertained that the three primary basic wants—food, clothing and shelter—of the normal family must be fulfilled as speedily as possible before the other deficiencies and symptoms of social malaise of abnormal or subnormal population are even taken into consideration. The question of the fulfilment of the basic wants has assumed such a grave turn amongst the lower middle classes in our city and land-less labour in rural areas and its incidence is so much wide-spread even amongst a large section of the low-income-group of middle class families that all other questions pale into comparative insignificance before it. Some of the sample surveys carried out in city-areas recently will bear out

this observation. If further statistical research is undertaken in this direction it will help to bring out the actual economic conditions of normal families more prominently. Therefore, our efforts should also be directed to apply the basis of the socio-economic aspect primarily to the control of the problem of delinquency and rescue work.

Delinquency work is generally planned, programmed and handled by technical experts in this field. Now a technical expert of this particular field just as an expert in other fields of life such as an engineer, a doctor or an agriculturist has to know not only how to organise, produce and to heal, but has to understand the relationship of his own activity to the social structure as a whole, and he should be able to appreciate the inter-dependence of the various aspects of social life and also the existing root-causes of the social maladies. In other words, he has to look beyond his immediate sphere of activity and must advert to the various elements of the economic and social structure and their inter-relations. The role of the State in these circumstances should be confined mainly and primarily to the prevention of the root-causes of the main malady, to its regulation by necessary recourse to law, and to the implementation of the public utility services *best suited to nip the malady in the bud.*

The needs and demands of a Welfare State and of the Plan which will ensure its creation, are comprehensive, and it has become inevitable for social workers working in the field of Child Welfare in general (delinquency forms only a part of this work) not to ignore or neglect but to try our utmost to overcome first the pangs of this economic distress for deliverance of a large section of our normal population and thus to control the symptoms of social malaise leading to delinquency and rescue work. It will be ascertained that this task is stupendous and does not properly lie in the field of Child Welfare. It is erroneous to think on these lines as it must be conceded that any kind of work in the right direction as a preventive measure must not be allowed to suffer for want of any human endeavour by social workers, if its necessity and utility are clearly established. It is therefore imperative to draw the attention to the needs even of the technical specialists and the controlling authorities of the State while drawing up future plans for their activities to have the back-ground of the prevailing economic conditions of families in the country and the first-hand knowledge of the day-to-day "field" of activities together with various forces and influences, economic, social and political, that operate in the country at large. It has been often noticed that generally the experts while planning and making research do not sufficiently go beyond the sphere of their activities to offer constructive proposals on the basis of the general well-being of the masses to minimise and ease out the tension in their particular field. But it must be clearly borne in mind that increasingly do people appreciate the need for avoiding one-sided development which exalts science and technology at the expense of economical,

emotional and moral perspective. Therefore, the complexities of the present situation in our country also, to no small extent, arise from the enthronement on a lone pedestal of theoretical and applied science without reference to the claims of the general population for fulfilment of their basic needs and other circumstantial handicaps.

Viewing the "Actual Field" of social welfare in the light of this general approach to the question of delinquency it will be easily noticed that our efforts to solve or even to minimise the problem of Delinquency, Rescue work and Beggary are at present one-sided, and therefore these questions are tending to assume alarmingly increasing proportions year after year, inspite of all our efforts to the contrary. This is because we are lamentably failing in our efforts to prevent conditions conducive or contributory to delinquency, *viz.*, to provide the elementary basic wants of the family and thus to serve the *Daridri Narayan* as Gandhiji has succinctly put it in his *Sarvodaya* ideology. A woman or a child deviates from the normal path in majority of cases on account of *lack of security in the home* due mainly to (1) poverty (2) want of gainful employment (3) filthy surroundings and (4) consequent general frustration in life. If social welfare work and legislation be directed, organized and channelled out on socio-economic basis to give precedence to prevent families from breaking up due to the aforesaid reasons, the need for spending vast sums of money on multiplying institutions for rescue-work, training of delinquents by expensive technical personnel in special institutions with their attendant After-Care and opening of Beggar Homes, would automatically be lessened in our industrially under-developed country. A social worker working *in the field* day-to-day easily notices at present that the women and children of these broken families form the potential "reservoir of to-morrow" of their institutions catering for delinquency and rescue work, and he also finds it impossible to deal with such enormous number of cases on account of inadequacy of such institutions and absence of State Laws to guide and serve them, and lack of resources and accommodation in voluntary organized social welfare bodies. Do we have the capacity, organization and necessary resources to dry up as speedily as we could this reservoir full of potential mischief, is therefore the main question. Instead of organizing a campaign in the sphere of social welfare also, to fight out this economic malady—a very potential source of delinquency and other evils—in our social structure, we are rather frittering our energies and spending vast sums of money from our National Exchequer and public charities in quite the opposite direction with very halting and little work, if any, in the right direction in our cities. Our headache to-day is a prolific birth rate with a rapidly declining death rate, large uneconomic families, increasing under-nutrition, low incomes and consequent ill effects of these on normal families and their ultimate frustration in life. Our efforts in the social welfare sphere are at present directed more towards ameliorative measures such

as more institutions for delinquency and rescue work than preventive and protective ones on the socio-economic basis. The result will be, it is feared, the Nation's frustration in the long run if we persist in this manner. It is inconceivable for an earnest social worker to-day why a large section of non-delinquent normal population of our children in the city should not also get the benefit of social services and educational and vocational programmes as much as the delinquent population. It seems what is actually happening in our Welfare State today is that we are trying to run before we are able to walk in many respects of our social welfare. To restrict to the subject-matter, we are apt to brush aside the idea of youth-welfare in general and bestow more thought and energy on one-sided aspect of the question, *viz.*, delinquency.

Moreover, our building up of new institutions and enactment of new legislation should also form a helpful force to promote primarily the general well-being of the normal families economically as well as socially. For instance, the working of the present Children Act in the State of Bombay is more beneficial to juvenile offenders rather than the normal educable and non-offender children of the broken families. In majority of cases, the latter children cannot be Court-Committed because they do not happen to be offenders under the technicalities of law, and therefore they are denied the equal opportunities of education and bringing up under State-Aid and social service programmes though in need of it as much as juvenile offenders. From the practical working of the present Children Act it will be easily established that as if to get State Aid the premium to be paid by a child is to learn to commit an offence. This anamoly is creating at present an atmosphere of utter frustration among the public. Therefore it is suggested that the present Act should be made so broad-based that no child from any destitute or economically handicapped family will be deprived of the opportunity of State Aid for education and proper bringing up until such time as the universal and compulsory education is made free to all such children and the basic needs of the families are within reach of the majority of them. It may even be necessary to set up separate institutions and have a separate legislative Act for normal children of destitute or broken families, but it must be scrupulously seen that its working is brought into actual practice and non-offender juvenile gets all the privileges that a delinquent child is entitled to by our State laws. This will lead to the decrease of delinquency in general and remove also the burden falling on the helpless mothers of broken families which they are at present incapable of shouldering. This will save our normal blossoming manhood from being crushed for want of mere opportunity.

There is yet another method that can be usefully employed to decrease potential delinquency. Social welfare workers agree that a child is best brought up under parental care. Now there are thousands of mothers who are economically handicapped to bring-up their children. For want

of proper help, guidance and remunerative employment they are unable to carry out their responsibilities. Therefore, their children can be classed as potential delinquents. If, side by side, in addition to their normal work, the State Departments in charge of delinquency decide to start or give aid to *Parishramalayas* (Work Centres) in our chief cities at convenient localities for these helpless, hopeless and homeless mothers, giving them remunerative work on self-supporting basis in cottage and home industries to run their families and maintain their children, it will go a long way to decrease delinquency in general in the right direction. There are at present very few such social welfare institutions of this type in our country which undertake on a large scale such kind of work with the proper objective. This kind of work in the nature of a preventive measure can be usefully experimented to watch the ultimate result. Our efforts to tackle delinquency and rescue work effectively should first be directed more speedily to such preventive and protective measures than palliative ones, and we should therefore concentrate more expeditiously on Family Welfare Projects in the chief cities in the socio-economic field on a much wider scale than is practised at present. As said above, this work of starting *Parishramalayas* can best be done by State Departments in charge of delinquency giving encouragement also to voluntary institutions to take up such work side by side, and thus increasing the scope and the practical utility of the revised Children Act to serve this purpose. But the initiative, responsibility and resources must be provided by the Central Social Welfare Board to make a good and sound start in this right direction.

It is therefore clear that authorities in charge of the prevention and treatment of delinquency should avoid being a party only to one-sided development of this problem of our social well-being. It is expected of them to adopt protective and preventive measures for the general well-being of our non-offender juveniles equally in need of social welfare programmes. The full implications of the socio-economic basis of this problem enunciated in the *Sarvodaya* ideology as preached by Mahatma Gandhi and equally ably brought into practice by our revered Vinobaji for the uplift and general well-being of the rural population should be comprehended and put into practice.

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"There is a loftier ambition than merely to stand high in the world. It is to stoop down and lift mankind a little higher".

—HENRY VAN DYKE.

* * *

"They onely stumbled for want of a lanthorne".

—HENRY BATES, 1647.

The Role of the Police in the Prevention and Control of Delinquency*

BY

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There have been many opinions expressed as to the role of the police in programs designed to control and prevent juvenile delinquency. These opinions have gone from the extreme of arrest, prosecution, and incarceration of all juvenile offenders to the equally extreme view that all contact with law enforcement has an adverse effect on a child. Modern police thinking accepts the theory of rehabilitation as being a realistic approach in most cases and police departments have adopted techniques and methods designed to further that purpose.

Special trained units within the police department, participation in community efforts, and placing stress on prevention rather than arrest and prosecution are some of the measures being devised and implemented throughout the country. It is generally agreed that this is a proper police role in the prevention and control of juvenile delinquency.

Special Units in Police Departments

Law-enforcement agencies, recognizing the growing challenge of juvenile delinquency, have expanded their activities to meet this challenge and its effect upon the welfare of the community and its citizens. Police departments have organized special units within the structure of the department staffed with personnel having qualifications in this particular field. Special training of this personnel has been inaugurated to further the stress being placed upon rehabilitation of the youthful offender rather than take the course of punitive action in all cases.

The purpose of such a unit is concentration on the understanding, control, and suppression of juvenile delinquency; the elimination of detrimental influences; and the protection of delinquent, dependent, neglected, and mistreated minors. Generally speaking, these special units have the same objectives as the entire department. However, in view of the fact that the juvenile court laws are essentially protective and rehabilitative, it is frequently necessary to modify the procedures established for the handling of adults by law enforcement when dealing with juveniles.

A Growing Trend and a Need

The developments in criminal justice indicate a slow but sure trend of moving away from simple and primitive retribution to a growing recognition of the many facets of

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criminology, plus a desire to rehabilitate as well as punish. As population grow and cluster into metropolitan areas, all of the old problems are intensified and many new ones created.

There is a need to prevent crime and delinquency and to attack it much sooner in the community and in the individual. Little basic research has been done and statistics acquired thereby are sometimes spotty and inadequate. Knowledge in the field will have to lag until basic research is sold to the public and knowledge is permitted to increase.

Rehabilitation should be one aim and where this has been determined to be an impossibility, decent exclusion from society should be the other. Punitive retribution, in all cases, is no answer at all although it is often the first impulse when a crime occurs.

There is a need not only to search into causes of crime but also into cures for the potential criminal. What meaning does this have for law enforcement, for the police department with its responsibilities to its community?

Police Responsibility to a Community

What are the fundamental responsibilities of a police department to the community it serves? Traditionally and historically they have been the preservation of peace, the protection of life and property, the enforcement of the law, and the prevention of crime.

From the police point of view, the prevention of crime has been primary among these responsibilities. Through the years, technique and methods have been developed and expanded to accomplish that end. Among these have been the advance of scientific knowledge in identification and analysis; selective enforcement; training of personnel; the enactment of statutes with punishment to fit the crime; the use of modern means of communication, etc. The greatest single deterrent to the commission of crime was, and still is, the foot patrolman.

Unquestionably, many crimes are not committed by individuals for no other reason than the risk involved. Who, then, is really being deterred from criminal activity? It is not the law-abiding citizen, it is the crime-prone individual. Logically then, real crime prevention efforts must be directed toward the individual. You cannot treat burglary or robbery. A person is not born with the inclination to commit crime. It is known that this tendency is not an overnight phenomenon. It is known that most of the inmates in adult penitentiaries were juvenile delinquents. One conclusion can be drawn from these facts; the starting point in efforts to prevent crime is with the child—the child in its formative years—just beginning to manifest behavior and attitudes that flash a warning signal.

It is obvious, even to the non-professional, that the degree of success in these efforts to effect a readjustment and change concepts toward society will be measured by the maturity of the individual and the stage of development of the behavior pattern.

Of prime importance is the early discovery of the potentially delinquent child. Two of the real danger signals are habitual truancy from school and habitually running away from home.

Causes of Delinquency

Much has been said and written about causes of juvenile delinquency. One fact seems to be clear: delinquent behavior is the result of multiple conditioning factors. It cannot be laid solely to any one such thing as economic deprivation, lack of recreational facilities, overcrowding, deteriorated neighborhood, etc. The home, of course, is primary in any consideration of causative factors. It is known that the vast majority of juvenile delinquents come from inadequate homes distorted by divorce, separation, immorality, alcoholism, parental bickering, indifference, erratic discipline, lack of family cohesiveness, and kindred situations. This does not explain the delinquent who comes from what appears to be an ideal home situation, both morally and economically.

A father's bank account is no assurance that a boy will not get into difficulty, nor is his social position or personal prestige. The lack of love, attention, and supervision may lead to sheer boredom and to prove himself a boy may rob or destroy for the thrill of it. He does not need what he steals but there is a sense of accomplishment in it. There is no one at home to assign him tasks or direct him in hobbies to gain the same feeling of achievement. While economic deprivation is a factor to be considered, delinquents do not come from homes where there is teamwork and respect for authority and each other.

Individualizing Each Case and Early Discovery

It appears abundantly clear that the approach to the problem of delinquency must be on an individual basis. Each case must be individualized. What, then, is the police role in community efforts at early discovery and prompt and effective individual action in dealing with the predelinquent child? Are the present methods employed by most of the police departments, in programs designed to prevent delinquency, at variance with the traditional concepts of police responsibility to a community? These questions can be answered by two questions. Is not crime prevention a police responsibility and is not crime averted by preventing delinquency and waywardness?

No one is more aware than the police themselves that they do not have all of the knowledge and tools necessary to make their prevention work more effective. They know that an effective program must be a coordinated community effort involving all of the persons and agencies with a responsibility in this field. They must take their place alongside the school, the church, the juvenile court, the recreation department, the welfare department, civic and fraternal organizations, health department, and other municipal and private agencies working together toward a common objective.

Procedure—Action—Disposition

The police force is in a strategic position for the all-important discovery of children in a potentially delinquent stage. It is usually the first official agency having contact with a child exhibiting these tendencies. To this end every police officer should be vigilant in observing juveniles loitering in undesirable places, being unlawfully absent from school, being out in public places at late and unusual hours, committing minor offenses, or any condition or situation conducive to delinquency.

Upon such observation and identification of the children involved, officers should contact parents and apprise them of the circumstances, obtain all possible information on a prepared form, and forward that information to the special unit within the department established for the purpose of delinquency prevention. This unit may be called a Youth Bureau, Juvenile Squad, Juvenile Division, or have a similar title.

Every police officer should use all possible remedial influence before exercising the power of arrest. If the age of the juvenile and the nature of the offense makes it manifestly unwise to refrain from an arrest, every effort should be made to complete the investigation as promptly as possible. Where it is deemed advisable and conditions will permit, the completion of the investigation should effect a release of the juvenile to his parents or guardian pending court action.

It is on the strength of reports submitted by members of the force, however, that stress can be placed on preventive measures and an individual approach conducted toward each juvenile involved.

Upon receipt of these reports, a member of the special unit, usually referred to as a screening officer, carefully evaluates the information reported. If it is a report on a condition or situation, assignment can be made to other members of the special unit for surveillance, observation, and corrective action. If the report pertains to the actions of one or more juveniles, the screening officer takes into consideration the age of the parties involved, previous reports on the same individuals, and the nature of the circumstances. In some cases the report may be filed pending further developments in the behavior of those reported. If prompt action is indicated, the case may be assigned to another member of the special unit who may be designated as a hearing officer. He arranges for a consultation with the parents, the juvenile or juveniles involved, and others having a direct interest in the case.

The Hearing: Its Purpose and Function

This hearing or consultation is extremely important. It is the heart of the prevention philosophy. It is here that much can be constructively accomplished in dealing with the minor delinquent or the predelinquent and his parents. A proper atmosphere must prevail in a physical setting familiar to the hearing officer. The home or detention quarters are unsuitable and should not be used for this purpose, if it can be avoided. The place should be comfortable and

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separate from other detained person and the public. During the hearing the juvenile should be interviewed alone. It is natural for a child to be reticent if others are listening and the tendency may be aggravated if he attributes his present difficulty to his parents or unsatisfactory home conditions beyond his control.

With the proper physical setting and good interviewing techniques, the hearing officer can most effectively individualize each case he investigates. He is attempting to discover the child's problems and he must be aware that those problems are as important to the child as are the problems faced by adults.

It is the purpose of the hearing to inquire into the "why" of the child's actions. The officer tries to gain an insight into the home situation, to ascertain the attitude of the parent toward the child and its behavior—whether they are concerned and have a constructive view or are indifferent or hostile. He seeks to learn if the parents can and will accept their responsibility toward the child and its future behavior. He is interested in the child's attitude toward that behavior. He counsels and advises, attempting to project the possibility of more serious behavior problems developing if the tendency is not recognized and diverted into acceptable channels.

The hearing can result in one of three possible conclusions:

1. *Release of the child to its parents without formal charge.* This decision is based on the absence of negative factors in the parent-child relationship, evidence of an emotionally healthy atmosphere between family members, a constructive attitude on the part of the parents and their willingness to accept responsibility for the behavior of the child, and if there is no pattern of delinquency and the current circumstances are of a minor nature.

2. *Referral to a nonauthoritative agency.* This develops from a desire of the child and the parents for help. This disposition would indicate there is present in the family what are described as "high risk situations." It would include overprotection, rejection, excessive restriction, favoritism and sibling rivalry, erratic discipline, and exploitation. The parents must recognize the existence of these situations and voluntarily accept the help that can be given. Other factors considered in this disposition are the absence of a delinquent pattern, the nature of the offense, and no record of previous failure in casework involving the child.

3. *Referral to the Juvenile Court.* This referral is made in all cases involving offenses that would amount to felonies if committed by adults or in the commission of serious misdemeanors. Other factors are: the juvenile offender is a probationer and known to the court; there is a record of repeated delinquencies; the juvenile and his parents have shown themselves unable or unwilling to cooperate with agencies of a nonauthoritative character; casework by an nonauthoritative agency has failed in the past; or, the juvenile

denies the offense and there is sufficient evidence to justify and sustain a petition in the court.

Unnecessary Arrests Must be Avoided

Once this policy has been established within a police department, the indiscriminate arrest of youngsters can be avoided. It is then incumbent upon the police to learn, as well as they can and as fast as they can, enough of the social sciences to enable them to recognize within the youngster the problems contributing to his or her delinquency. They can then utilize the agencies, public and private, that exist in the community for reference of those children and their families who need and desire professional care and guidance.

It is paramount that unnecessary arrests be avoided. Our institutions are overcrowded and youngsters cannot be kept long enough for effective rehabilitation because they must make room for others. The percentage of recidivism is estimated from 35 to 40 percent and a practical view questions if this is real rehabilitation. Every resource should be used to keep youngsters out of institutions and referral to courts should be dictated when, for the good of the community or the good of the individual, this is the best thing to do.

Training of Personnel

It is obvious that training of police personnel assigned to this field is essential. Important decisions involving our greatest heritage, our children and their future, must be reached. It is also important that all police officers, as part of their basic training have a knowledge and understanding of the purposes and functions of the special unit and juvenile court.

Among the purposes of the training for the special unit should be the creation of an understanding of child behavior patterns, a knowledge of causative factors in antisocial behavior, an insight into techniques and methods for handling children, a knowledge and understanding of the functions and purposes of other agencies.

To accomplish this objective, many police departments have instituted in-service training programs. As a means of identifying the type of training believed necessary to qualify members of the special unit for this important task, a brief description of the inservice training course initiated by Robert V. Murray, Chief of the Metropolitan Police Department, Washington, D.C., might be of value.

Immediate cooperation of the Federal Government enabled a psychiatrist from St. Elizabeths Hospital and a clinical psychologist from the National Institute of Mental Health to lecture to the class. Universities in the Metropolitan area supplied instructors in psychology, sociology, and other social sciences. Heads of government and private agencies, public welfare departments, institutions, public health agencies, the juvenile court, the schools, and the coordinating council of the District of Columbia gave of their valuable time to assure a complete and comprehensive program of instruction. Officials of the Metropolitan Police,

who were sent to the Delinquency Control Institute of the Universiy of Southern California by Chief Murray, also participated by giving the benefit of the training they had received at that internationally known institute. The course, consisting of 48 hours of instruction, was attended in three separate sessions by the entire presonnel of the special unit, selected officers from other units, and representatives of law-enforcement agencies in the metropolitan area of Washington.

Coordinating Councils and Community Participation

Perhaps the most important phase of a community's efforts to control and prevent delinquency is a coordinating council. Such a council, unique at its inception, exists in the District of Columbia. It may be helpful to explain its purposes and functions.

Known as the Commissioners' Youth Council, it was created in October 1953 by the Board of Commissioners, the governing body of the District of Columbia. Its purpose is to study ways and means of reducing and preventing juvenile delinquency in the District of Columbia and to develop and execute a program to that end.

The District of Columbia is divided into areas, each area having its own board to study the problem in its particular area and to develop a program for that neighborhood. The Commissioners' Youth Council has the responsibility of evaluating and coordinating the work of the area boards and the formation of overall policies to be followed. It has the further task of securing the coordination of the activities of all agencies and organizations in the District of Columbia, both private and governmental, concerned with juvenile delinquency.

The Council is composed of representatives of the agencies concerned and persons appointed on the basis of personal qualifications. The area boards operate basically as autonomous groups. They consist of people—professional and lay—concerned about children in their neighborhood. They attempt to foster a feeling of community responsibility in citizens and to find remedies, if possible, for children getting into trouble, to discover potential problem children early, and to be resourceful in helping them.

This Police Role—Is It a Proper One?

Some criticism has been noted as to the propriety of the police engaging in what might be termed the "treatment" field in their efforts to combat delinquency. Certainly the police are not qualified, for the most part, to enter this field although admittedly there are elements of treatment in this approach. In fact, any official contact between a child and a police officer is, in a sense, a phase of treatment. The officer's attitude and conduct toward the child may have a decided effect on the child's outlook and feeling toward those in authority.

An answer to this criticism may be found in two simple questions: "Is crime prevention a police responsibility?" and "Is delinquency prevention, crime prevention?" It is obvious

that crime prevention is a police responsibility and it logically follows that if most of the adult criminals were juvenile delinquents, preventing delinquency is crime prevention. To apply intelligently these fairly new concepts in law enforcement by trained personnel for the purpose of delinquency prevention is, without question, a proper function of a police department as part of its responsibility to a community.

This, of course, means no quick and easy solution to the problem. By its very nature the program has long-range objectives. With emphasis on the young child first beginning to mainfest a delinquency tendency, the results of this approach and the techniques and methods employed must await the passing of time. It is heartening to note, however, and to feel somewhat optimistic about the value of counseling at hearings on first and minor offenders, wherein the parents had assumed responsibility, when preliminary results indicate that the large majority of these children do not get into further trouble requiring police attention. It is also encouraging to note, contrary to a widespread belief, that the parents of potentially delinquent children for the most part were concerned about the welfare of their childern and had a constructive attitude toward the efforts made on behalf of those children.

Three Major Factors in Delinquency Control

In their efforts to control and prevent delinquency the police are exposed to sociological, psychological, sociopsychological, and biological theories. The police, as such, are not referred to extensively in the many conferences that have been held all over the country. In approaching the problem from a realistic and practical standpoint, police officials believe there are three major factors in delinquency control:

1. First and foremost, the *home.* Unquestionably, the opinion that unsuitable, unstable, or inadequate home situations are paramount in analyzing delinquency causation is shared by practically all those having a knowledge of conditioning factors.

2. Second, the *church.* How lack of spiritual guidance affects the total delinquency picture is not clear. It is significant to note, however, that known delinquent children have had little or no religious affiliation. It can be assumed that families that spawn delinquents are usually not a part of the church-going population. Here, then, is a need and challenge for churches to expand their activities. Delinquent children and their parents are not found in churches, nor will they be until churches develop a missionary type of endeavor. There is a need to reach the unreached.

3. Third, the *school.* Next to the home the school is the great training ground. It is here that the early detection of the problem child and a recognition of delinquency in the home structure becomes apparent. There is a need for schools to be staffed with adequate personnel, not

only to be alert for such conditions, but to be qualified to diagnose and refer those cases needing follow up treatment. The schools need to have resources available to them for referral purposes that will aid them in their task of developing socially responsible, useful persons. Too many schools do not have such resources when these situations come to light.

Community First—Individual Second

Stress has been placed on the welfare of the child, but sight must not be lost of the fact that a police department's first responsibility is to the community. Where the interests and welfare of the community are at stake, the welfare of the individual must be relegated to second consideration. Surely all remedial forces should be brought to bear in the interest of the young offender who is involved in minor difficulty, but when he is in the upper juvenile age group and is involved in the commission of serious crimes such as felonious assaults, robberies, forcible rape, and other grave offenses, he becomes a menace to the community and must be removed from it. The sophisticated, hardened delinquent committing such offenses, who is a juvenile in age only, should be handled for what he is—a young criminal. It is the objective of those charged with the responsibility of controlling and preventing delinquency to coordinate with all persons, organizations, and agencies in the field of child welfare through concentration on preventive aspects in dealing with young children, and to direct the child into channels that will avoid reaching that stage.

Conclusion

Members of police departments should have some knowledge and understanding of conditioning factors in misbehavior and other facts brought to light through study and research. While the following reflects only a small part of the total picture, it will throw some light in the direction of better understanding between those in law enforcement and those in the social field by giving law enforcement a look at the social factors involved in delinquent behavior.

1. There are four basic factors: physical, mental, emotional, and environmental.

2. Physical defects and shortcomings are not causes but are primarily aggravating and accessory influences.

3. There is a high incidence of dullness among delinquents, and mental retardation is a factor in misbehavior, but 70 percent of delinquents are mentally normal.

4. The outstanding factor is emotional disturbance. It is not the situation that develops misbehavior, it is the individual's reaction to the situation.

5. The two most frequent characteristics of delinquents are restlessness and hyperactivity.

6. In general, the delinquents have similar ideas of right and wrong as do nondelinquents.

7. Almost every delinquent has had trouble in school before becoming delinquent.

8. A concentration of delinquents is found in low income areas but there are many in the upper classes.

9. Approximately 75 percent of delinquencies are engaged in with others.

10. Search for leisure time activity is a factor to be considered.

11. Eighty percent come from broken or poorly supervised homes.

12. Delinquent behavior is learned and acquired, not inherited.

13. A preventive program must recognize how modes of behavior are acquired.

14. Most juvenile behavior, ordinarily characterized as delinquent behavior, is *not* abnormal behavior.

15. Individual differences must be held paramount. Every individual delinquency requires explanation.

16. Manifestations of misbehavior originate very early in childhood.

17. Behavior patterns are complex and extend into the past.

18. All children have definite urges and needs. These may vary with the individual child.

19. Many delinquencies are the result of frustrations of primary needs and urges.

20. There is no single cause for delinquency and no single cure or treatment can be expected to eradicate this type of behavior.

Delinquency is a community problem. It is not the sole responsibility of any one person or agency. Youth will develop into the man society helps him to be. Old repressive attitudes must be left aside. The police attitude toward youth in general must be one of protection and guidance, the extension of a helping hand to the growing boy or girl, and aid in creating a responsibility that will encourage respect, not only for those who enforce the law, but the law itself.

The police must live with the problem of delinquency. Police attention can be directed toward no better problem than the welfare of youth. It crosses all lines. They are kids and were not born bad.

———★———

" When in doubt ask a policeman, has been the early instruction of most of us. Many people feel that a policeman should be a walking Encyclopaedia. The Policeman may not be able to live up to this reputation, but he should be proud that he has it and do what he can to keep the good esteem of the public. A desire to help will pay big dividends in public opinion. For City Policeman, a map and a small pocket street guide and directory of points of interest should be standard equipment. These will enable him to answer many questions. If the Policeman does not know, he should try to find the answer if that is feasible. If this is not, he should simply admit that he does not know and that he is sorry that he cannot help. He should never adopt a " how should I know attitude ".

—LT. COL. WALKER A. LUSZKI, MPC.

Legal Aid in Kerala State

Kerala Legal Aid (to the Scheduled Castes and Scheduled Tribes and to the poor) Rules, 1957.

Whereas in the administration of justice both in the Criminal and Civil Courts the members of the Scheduled Castes and Scheduled Tribes and other persons who are poor are, in most of their cases, not in a position to engage counsel to appear and plead for them;

And whereas the absence of counsel for the conduct of their cases often cause great hardship on account of their cases being not properly presented before the courts of justice;

And whereas Government are of opinion that this unhappy aspect in the administration of justice should be mitigated as far as possible;

Now, therefore, the Government of Kerala hereby make the following rules for providing legal aid to the members of the Scheduled Castes and Scheduled Tribes and to poor persons—

1. *Short title*—These Rules may be called the Kerala Legal Aid (to the Scheduled Castes and Scheduled Tribes and to the poor) Rules, 1957.

2. *Definitions*—"Legal aid" means the aid given by the State to a person by meeting the fee of counsel as may be prescribed from time to time and includes any other aid given in connection with the litigation for which a counsel is engaged which Government may decide from time to time.

(*b*) "poor person" means a person certified to be poor by the court or such officer as Government may prescribe, as not having the means to engage a counsel of his own for the conduct of his case, appeal or revision before the court, or answering such other conditions as Government may prescribe.

Explanation—A person whose average monthly income is not more than Rs. 100 (Rupees hundred) shall be considered to be poor for the purposes of these rules.

(*c*) "Scheduled Castes" and "Scheduled Tribes" mean the Scheduled castes and Schedule Tribes specified by the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 respectively as pertaining to the State of Kerala and include the converts from such Scheduled Castes and Scheduled Tribes.

Criminal

3. *Legal aid in cases before the High Court, Courts of Session and District Magistrates*—A poor person may be given legal aid in a trial before the High Court, Court of Session or Additional or Assistant Sessions

Court and also in an appeal or revision before the High Court, Court of Session, Additional or Assistant Sessions Court and Court of the District Magistrate and if a wife or child, in a proceeding under Section 488 of the Code of Criminal Procedure, 1898 sending for enquiry before any magistrate.

4. *Court to decide the capacity of the person to engage the counsel*—(1) The Court before which the trial, appeal or revision as the case may be is pending shall be competent on an application made to it in this behalf, in the form appended to these rules to certify whether the person concerned is poor or not. No court fee is payable on such application.

(2) The Government may authorise the Tahsildar or any officer to be specified in whose jurisdiction the person is usually residing to report about the means of the person or to certify whether he is a poor person.

(3) The court shall on the basis of that report or certificate and such other information (if any) which it could obtain from the trial or committing Magistrate or Police certify whether the person concerned is poor or not. The report or certificate of the Tahsildar may be produced along with the application or later on.

5. *Legal aid to Scheduled Castes and Scheduled Tribes in Criminal Cases*—A member of a Scheduled Caste or a Scheduled Tribe shall be entitled to legal aid given to a poor person under Rule 3 and also to legal aid in all trials before all Magistrate's Courts.

Civil Cases

6. *Legal aid to Scheduled Castes and Scheduled Tribes in Civil Cases*—Members of the Scheduled Castes or Scheduled Tribes shall be given legal aid in all civil cases, appeals and revisions in the civil courts either for prosecuting or for defending civil actions.

7. *Certificate that the person is a member of the Scheduled Caste or Schedueld Tribe*—(1) For the purposes of Rules 5 and 6 the Government may authorise an officer of the Revenue Department or of the Department for Harijan Welfare to certify as to whether a person ordinarily residing within the jurisdiction of the officer is a member of the Scheduled Caste or Scheduled Tribe; and [as to whether he is a poor person.]*

(2) The Court shall on the application in writing of any person who is a member of the Scheduled Caste or Scheduled Tribe and on production of the certificate under sub-rule (2) grant legal aid to such person. No court fee is payable on such application.

(3) *[No member of a Scheduled Caste or Scheduled Tribe shall be entitled to legal aid under Rule 5 or 6 unless he is a poor person.]

8. *Legal aid to Paupers*—Persons who are allowed to sue or appeal in

* Inserted in Home (C) Department Notification No. HC (4)-16827/57/HD/dated 30th September, 1957.

forma pauperis may also be given legal aid (except in cases where the court considers the suit or appeal as frivolous or vexatious).

9. *Legal aid in certain special classes of cases*—In suits, appeals and revisions arising out of legislations intended to safeguard the interests of or confer benefits upon a section or class of people like workers, tenants, etc., Government may, if they are satisfied on the representation of a Kisan or Trade Union or Organization or in exceptional cases by the party himself that there is an important legal issue to be decided which may have far reaching consequences in a way opposed to the indentment of the legislation and that the party is unable to engage eminent counsel to conduct his case efficiently, direct the Government Pleader or the Advocate General to appear on behalf of such person in such suits, appeals or revisions.

10. *Panel of counsel for legal aid*—The appointment of the counsel for the poor under these rules shall be made by the Court from a panel of Legal Practitioners for each court constituted each year by the Presiding Officer of the Court in consultation with the President of the Bar Association (who may consult its executive Committee). The Panel should include the President of the Bar Association or atleast one Senior Advocate who may be called upon to be the counsel in any important case where legal aid is given. Normally the presiding officer should not go outside the panel but he may do so for any exceptional reason to be recorded in writing.

11. (1) The panel shall be constituted every year from the first January to the 31st December:

Provided that a counsel in the panel for any year shall continue in a case for which he is engaged till its completion even if the case is not closed in that year.

(2) All persons included in the panel shall express in writing to the Presiding Officer of the court their willingness to serve in the panel and thereupon such persons shall be bound to accept engagement in any case and appear in court when so engaged by the court.

(3) Any person in the panel may tender his resignation in writing to the Presiding Officer of the Court.

(4) Any vacancy in the panel caused by such resignation or otherwise may be filled up by the Presiding Officers from among the Advocates practising in the court but the term of persons so appointed will expire on the 31st of December succeeding the appointment.

(5) If any person having agreed to serve in a panel neglects to do so when he is called upon to accept an engagement by the Presiding Officer he shall forthwith cease to be a member of the panel and shall be debarred from being re-appointed in a panel at any time subsequently.

(6) Any person in a panel for any year shall not be ineligible on that ground to be included in the panel for any subsequent year.

(7) Cases in which legal aid is sanctioned may be distributed among the members of the panel equitably.

12. *Strength of the Panel for the various courts*—(*a*) The panel for the High Court shall consist of fifteen Advocates.

(*b*) The panel for a District and Sessions Court (including Additional Court sitting in the same place) shall consist of eight Legal Practitioners.

(*c*) The panel for an Additional District and Sessions Court held in a place different from the place of sitting of the Principal Court shall consist of six Legal Practitioners.

(*d*) The panel for a subordinate Judge's (and Assistant Sessions) Court shall consist of six Legal Practitioners.

(*e*) The panel for a Munsiff's Court shall consist of four Legal Practitioners.

(*f*) The panel for a District Magistrate's Court shall consist of four Legal Practitioners.

(*g*) The panel for a Sub-divisional Magistrate's Court and a Magistrate's Court shall consist of four Legal Practitioners each.

13. *Fees*—(1) (*a*) In Criminal cases before the Sessions Court and Additional and Assistant Sessions Courts for the defence of an accused on any charge the counsel shall be entitled to a fee of Rs. 25 per day subject to a maximum of Rs. 150 in the aggregate. In Criminal trials, appeals and revisions before the High Court the fee to be paid to the counsel shall be fixed by the High Court in its discretion not exceeding Rs. 150 per case.

(*b*) The fee payable for counsel in Criminal cases other than those referred to in clause (a) of sub-rule (1) before all courts shall be Rs. 15 per day if the counsel's work is less than 3 hours and Rs. 25 if the work takes more than 3 hours. The aggregate fee to which a counsel shall be entitled shall be Rs. 75 for a single case, but Rs. 50 if a case under Section 488 of the Code of Criminal Procedure, 1898.

(2) The fee payable in civil cases shall be the fees prescribed as per the rules framed by the High Court under the Bar Councils Act, XXXVIII of 1926.

(3) The fee payable to the Government Pleader and to the Advocate-General when they are asked to appear on behalf of poor persons in cases referred to in Rule 9 shall be in accordance with the scale of fees prescribed for these officers for conducting similar cases on behalf of Government.

14. *Disbursement of fees*—(1) The fee for counsel engaged in the High Court, District and Sessions Courts, Additional District and Sessions Courts, and Assistant Sessions Courts and District Magistrate's Courts shall be disbursed by the respective courts on the receipt of counsel accompanied by a certificate as per rule 15.

(2) The counsel engaged in Sub-divisional Magistrate's Courts and Magistrate's Courts shall file before the Courts the receipt and certificate in duplicate.

(3) The fee for the counsel engaged in Sub-divisional Magistrate's Courts and Magistrate's Courts will be paid by the District Magistrate within whose jurisdiction the Magistrate court is situated when the receipt and certificate filed by counsel in the concerned court is forwarded by the court to the District Magistrate with the intimation under sub-rule (4).

(4) The Sub-divisional Magistrate or the Magistrate shall intimate the concerned District Magistrate the fee payable to the counsel after verifying the details in the certificate put in by the counsel and shall forward the receipt and certificate filed by the counsel to the District Magistrate retaining the duplicate in the Court. The counsel may also indicate whether he would prefer payment by the District Magistrate by cheque or cash or by money order at his expense.

(5) The District Magistrate may pay cash or send the amount by money order at the expense of the counsel as the counsel may prefer.

15. *Certificate*—The certificate to be submitted to the court with the receipt shall contain the following details :

(*a*) the number of days on which actual work was done;

(*b*) the duration of work for each day;

(*c*) in case of appeals and revisions a statement that in his opinion it was a fit case for appeal or revision as the case may be;

(*d*) the fee payable to him as per these rules.

16. (1) *Courts to fix payments after examining the certificate*—The Courts that are competent to disburse payment of the fee may after examining the certificate and other relevant records sanction and pay the fee payable under these rules.

*(2) The Courts, shall maintain accounts showing separately the amounts given as legal aid to the members of the scheduled castes and scheduled tribes and to other poor persons.

17. *Counsel not to receive any fee from party*—The counsel to whom fee is paid under the scheme shall not be entitled to nor shall be receive any fee from the party direct.

18. *Procedure for getting legal aid*—(1) Those who wish to avail of the legal aid in any case pending in court may move the court that he is not in a position to engage counsel at his cost and that he is eligible for legal aid under these rules. The court may, on the production of a certificate or getting a report from the Tahsildar or Harijan Welfare Officer as the case may be in whose jurisdiction the applicant ordinarily

*Inserted in Home (c) Department Notification No. HC (4)—16827/57/HD/dated 30th September, 1957.

resides or after examining the applicant and others or otherwise, if satisfied that he is eligible for legal aid, engage counsel for him.

(2) In the case of suits, appeals or revisions filed by a poor person who is eligible for legal aid under these rules through a counsel of his own, notwithstanding anything to the contrary in these rules, such person may be given the aid as if the counsel has been engaged by the court subject to production of a certificate from the counsel engaged by him that the suit, appeal or revision was in the opinion of the counsel a fit one to be preferred.

19. *Legal aid to be reduced to the extent of Compensation and Advocate's Fee*—(1) When compensation is awarded and paid to a person in a Criminal case to whom legal aid is sanctioned, the amount sanctioned to be paid as legal aid shall be reduced to the extent of the compensation amount and the balance if any, is alone payable as such aid.

(2) In a civil case where legal aid is sanctioned, before Court actually engages counsel for the person to whom aid is sanctioned such person shall file in the court an agreement in the form appended to these rules agreeing to pay to the Collector of the district in which the court is situate the advocates' fee decreed on realisation of the same by him and in default authorising the Collector to recover the same under the Revenue Recovery Act.

(3) In cases to which rule 18(2) applies a similar agreement as in sub-rule (2) with suitable modifications shall be filed in the court soon after the proceedings are instituted.

Saving

20. Notwithstanding anything contained in these rules, it shall be competent for the Government to issue any direction or instruction from time to time with a view to implement the Scheme for legal aid to poor persons having regarded to the special circumstances of any case.

(*Turn over*)

—★—

" Unless a tree has borne blossoms in spring, you will vainly look for fruit on it in autumn ".

—HARE.

* * *

" Social work has a basic contribution to make to *corrections*. More accurately, *corrections* must be restored to social work both because it is an important aspect of the profession's responsibility which has been ignored in recent years and because it can be a source of considerable strength to social work. Historically and traditionally, *corrections* has been at the centre of social work concern ".

—KENNETH D. JOHNSON.

FORM OF APPLICATION FOR LEGAL AID

(*See Rule 4*)

1. Name of the Court ...
2. Number of suit/appeal/revision/complaint ...
3. Name, description and place of residence of the applicant ...
4. The capacity in which he is appearing (Here state whether as plaintiff, defendant, appellant, revision petitioner, complainant or accused) ...
5. The average monthly income of the applicant ...
6. The name, description and place of residence, of the opposite party, so far as can be ascertained ...

I am the..in..........................No.................. noted above. My average monthly income is Rs...............................I am not in a position to engage a counsel of my own in the above.. I therefore pray that the court may be pleased to engage a counsel for me in the above...

Signature of Applicant.

I do hereby declare that what is stated above is true to the best of my knowledge and belief.

Signature of Applicant.

Place :

Date :

Forwarded to...for enquiry and report before....................................

Presiding Officer.

Certificate.

Certified that on enquiry the applicant is a person whose average monthly income does not exceed Rupees One Hundred.

Signature of Officer.

Place :

Date :

(Strike out those that are not applicable)

FORM OF AGREEMENT

(*See Rule 19*)

ARTICLES of Agreement executed on this the..........................day of.................................
one thousand nine hundred and..by Shri..
............................(hereinafter referred to as the "bounden") in favour of the Governor of Kerala (hereinafter called "the Government").

WHEREAS as per the Kerala Legal aid (to the Scheduled Castes and Scheduled Tribes and to the poor) Rules, 1957 the bounden had applied to the..
court..in.......................................No..........................for legal aid ;

AND WHEREAS the court was pleased to sanction the bounden the legal aid by appointing a counsel for the bounden/by recognising the counsel engaged by the bounden, for purposes of the rules subject to the terms and conditions contained in the Rules and those hereinafter appearing to which the bounden has agreed.

Now these presents witness and it is hereby agreed as follows :—

(1) In case the decree in above mentioned...............................directs costs including Advocate's fee to be paid to the bounden and if the bounden is able to realise the Advocate's fee from the opposite party, the bounden hereby agrees to pay fee thus realised by him to the Collector of...on behalf of Government immediately after the realisation of the same.

(2) If the bounden defaults in due payment of the Advocate's fee realised by him to the Collector as above the bounden further agrees that such amounts shall be recoverable from the bounden and his properties under the provisions of the Revenue Recovery Act for the time being in force as if they were arrears of land revenue or in such other manner as may be deemed fit.

In witness whereof Shri..the bounden has hereunto set his hand the day and year first above written.

Signed and delivered by Shri..the bounden.

In the presence of witnesses :—

(1)

(2)

Filed in the Court..on..............................

Presiding Officer.

Date :

News and Notes

Chief Minister Plays Host to Juvenile Delinquents in U.P.

Repentance writ large on their faces, 70 boys from the Bareilly Juvenile Jail, most of them murderers, were guests of the Chief Minister, Dr. Sampurnanand, at his residence in Nainital. The boys were in Nainital for participating in the festival week. Their crimes ranged from petty theft to rape, dacoity and cold-blooded murder and, as the law must have its say, 50 of them had been awarded transportation for life by various courts in the state.

Among the youngest guests of the Chief Minister was a 12 year-old boy from Saharanpur whose father, a vegetable seller, had a row with three or four men. The boy stood mute for sometime, helplessly watching his father being beaten by his stronger adversaries, and than enraged took hold of a knife lying nearby and stabbed to death one of the latter. The court gave him twenty years.

As one watched the boys playing their own bagpipe band, sitting with the Chief Minister and his family in the drawing room of the Brookhill House, sipping cups of tea in the room where not many days ago the U.P. Cabinet held its long budget meetings, one could not help feel that these juveniles were more sinned against than sinning. But for their smart khadi uniforms which gave them the appearance of disciplined boy scouts from a school, it would have certainly been impossible for anyone to distinguish them from the rest of the men and women who watched them from a distance.

The stern-faced Chief Minister looked visibly moved as he sat among the boys. There was a queer sadness in the room and everything seemed to be proclaiming that it was simply their misfortune that had landed the boys in trouble.

But fortunately thanks to the radical changes that the concept of of penology has seen in recent years, the juveniles will not have to undergo the terms of imprisonment awarded to them. When they reach the age of 21, a special board will examine their cases and recommend their release to the State Government. About ten juveniles are thus released from the Bareilly jail every month.

In jail, they learn the three R's for six hours and handicrafts for four hours every day. After their training they are sent out to factories and the wages they earn help them in their rehabilitation on release. The jail keeps in touch with them even after their return to the free world. For such of them as feels of freedom there is a Released Boys' Home near the jail itself. They can live in this home for sometime to get over their natural reluctance to face possible hostility from the "respectable" world outside.

The boys will go back to Bareilly shortly. They have been giving P.T. and band performances at the Flats for some days now and it would indeed take a long time for those who watched them to forget the trial through which they are going to live down the one single moment of madness that made them lose themselves.

—*Frontier Mail, Dehra Dun.*

Production Units in Rescue and After Care Homes

Pattern of Financial Assistance to State Governments

The Government of India will give financial assistance to the State Governments for approved schemes for the establishment of Production Centres under the Moral Hygiene and After-care programme sponsored by the Central Social Welfare Board. The Director of the Regional Small Industries Service Institute will render whatever assistance is required in the preparation of the schemes.

The following is the pattern of assistance adopted for such schemes:

(*a*) The entire non-recurring expenditure for the establishment of production centres and 50% of the recurring expenditure would be given as *Grant*. The remaining 50% of the recurring expenditure would be given as a *Loan*.

(*b*) The loan is repayable in a period of 10 years and the first instalment of repayment will fall due 24 months after the date of drawal of the loan. The subsequent payments will be made in 9 instalments which will be equated instalments of principal and interest.

(*c*) The interest charged for this purpose would be at the concessional rate of 2½%. The interest would initially be charged at the normal rate, *i.e.*, 4%, and a subsidy would be given for the difference between the normal rate *viz*. 4% and the concessional rate 2½%.

(*d*) Financial assistance will be subject to the condition that the equipment purchased and buildings constructed would not be disposed of for any other purpose at anytime without the sanction of the Government of India and in the event of sale of equipment and buildings, the proceeds would be credited to the Central Government.

The financial assistance to be given to State Governments for their schemes will be within the overall allocation to State Governments for the development of Small Scale Industries during the Second Five Year Plan Period.

* * *

First After Care Home in Delhi

The Government of India have sanctioned the establishment of an After Care Home for women discharged from correctional and non-correctional institutions in Delhi this year. The Government of India have also sanctioned a sum of Rs. 25,620/- for the maintenance of the home for 1957-'58.

A committee consisting of representatives of the Central Social Welfare Board, the State Social Welfare Advisory Board and the Nari Raksha Samithi will manage the affairs of the home. To ensure vocational rehabilitation of the inmates, a production unit will be started in the home with proper training facilities. Training of personnel for supervisory work has been undertaken by the Central Social Welfare Board.

All India Correctional Conference

The Third All India Correctional Conference will be held at Trivandrum in the third week of December 1957. The Hon'ble Sri Govind Ballabh Pant, Union Minister for Home Affairs will inaugurate the Conference.

The Railway Board has been pleased to sanction single fare double journey concession to delegates and observers whose travelling expenses are not borne by the Government or other statutory authority.

Full particulars, application forms etc. can be had from the Secretary, The All India Correctional Conference, 95, Mount Road, Madras-18.

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The Decennial Anniversary Session of the Indian Conference of Social Work will be held at Madras from 28th December 1957 to 1st January 1958. "Correction and Welfare in Prisons" is one of the subjects in the agenda under workshop meetings.

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—ANONYMOUS (Federal-Probation).

193341

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(1) To promote and assist in promoting the Social Welfare of the community by the practice of Probation, Parole, After-Care and kindred social services of the Courts, Prisons and other correctional institutions;

(2) To stimulate, extend and develop Probation, Parole, After-Care and kindred social services throughout the country through conferences, legislation, publication and distribution of literature, and in other ways;

(3) To promote good and uniform standards in correctional work including Probation, Parole and After-Care, and to further all methods for the effective, scientific and humane treatment of delinquency and its prevention;

(4) To promote fellowship and co-operation among Correctional, Probation, Parole and After-Care Officers and all others who are concerned in the administration of justice and the treatment of delinquents; and

(5) To collect funds and to do all such other things as are incidental or conducive to the attainment of the above objects or any of them.

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